

New York Times News Service

U.S. attorney Robert L. Meyer of Los Angeles resigned because he disagreed with the Justice Department's decision to prosecute Dr. Daniel Ellsberg, according to informed sources.

The White House announced in Key Biscayne, Fla., on Friday that Meyer had resigned, but the two-sentence statement did not contain the usual expressions of regret.

In fact, the sources said, Meyer was forced out of office for a variety of complex reasons.

Meyer could not be reached immediately for comment.

In June, Meyer refused to sign a two-count indictment that charged Ellsberg with illegal possession of the Pentagon papers and converting them to his own use.

One reason for his refusal, the sources said, was that Meyer felt "upstaged" by lawyers from the Internal Security Division of the Justice Department. These lawyers flew to Los Angeles on short notice, presented evidence to a grand jury and sought an indictment without consulting very extensively with Meyer.

Paul T. Vincent of the Internal Security Division signed the indictment when Meyer would not.

Sources in the Justice department said the Ellsberg case did not figure seriously in Meyer's departure. But the lawyer has been telling friends lately that he disagreed with the prosecution of Ellsberg and predicted that the former Defense Department official would be acquitted.

Meyer had other problems. He obtained indictments against several Los Angeles policemen who were accused of killing two Mexican nationals without just cause. Police chief Edwin Davis and Mayor Sam Yorty later held separate news conferences on his action. They also complained to the Justice Department about the indictments.

Moreover, the U.S. attorney also aroused anger among some law enforcement officers when he started an investiga-

tion into police behavior during the riots at Isla Vista, the student community near Santa Barbara, which resulted in the burning of a bank and the death of a student.

There also were complaints from many sources that Meyer, a pension fund lawyer in private life, was too inexperienced and too abrasive to handle the job. A number of experienced lawyers in the Los Angeles office have left recently, partly out of disagreement with his methods.

Meyer, 43, was appointed by President Nixon in April 1970. One of his supporters apparently was Robert H. Finch, a close presidential adviser and former lieutenant governor of California.

Pentagon Papers Postscript

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For the Record . . .

Two Questions of Confidentiality

A-14
 Commentary by Howard K. Smith on
 ABC News, November 5, 1971.

Here is a sequitur I have a little trouble following.

A lot of officials discussed contingency plans for Vietnam for years under the assurance that their words were confidential. Indeed, confidentiality was legally guaranteed by classifying the papers secret—it was illegal to reveal them.

Dr. Daniel Ellsberg got the papers and decided, assurance or none, law or not, he had the right to publish them. Thus, the Pentagon Papers appeared . . . which I was glad happened.

Now, the said Dr. Ellsberg has taken part in a seminar for the Council on Foreign Relations. It is the practice of the council to

keep such matter confidential. But the government asked to see what he said, and got a subpoena from the court to acquire his remarks. With, I thought, a certain logic the council handed over his statement.

But now, Dr. Ellsberg is in a state of high dudgeon. They have no right to see my paper, he says in effect, for it was confidential, my constitutional rights are violated.

I take no sides. I am just puzzled. If Ellsberg can publish confidential papers despite the law, why cannot the government see his confidential paper by process of law?

I am as stern a defender of law and rights as any man. But until I hear more coherent argument than Ellsberg and friends put forth, this sounds like a claim not of rights, but of a very special privilege.

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The Two Ellsberg Cases

"If Ellsberg can publish confidential papers despite the law," Howard K. Smith asks rhetorically in a commentary presented on this page today, "why cannot the government see his confidential paper by process of law?" In calling this a "sequitur," Mr. Smith glides too easily, we think, over some rather conspicuous differences between leaking of the Pentagon papers by Mr. Dan Ellsberg and the government's use of a subpoena to obtain Mr. Ellsberg's submissions to a Council on Foreign Relations seminar. There is a lot of difference, to begin with, between an effort by a private citizen (or a newspaper), on the one hand to discover, and to tell the public, what the government is planning and doing and an effort, on the other hand, by the government to discover for its own purposes what a private citizen is thinking and saying. A society is self-governing only to the extent that it knows what its government is up to; and so it is in the public interest to learn what zealous and conscientious government officials may desire to conceal—not always, perhaps, but most of the time.

Another important difference is that, in obtain-

ing Dr. Ellsberg's confidential paper, the government used its own legal powers and machinery, while the confidential papers taken from the government were simply made available for publication by someone who had access to them. Obviously, it would have been futile for Dr. Ellsberg to seek a subpoena for the so-called "Pentagon papers." He made them available—or at least he says he did—in the only manner open to him.

It was information—not, as some seem, to suppose, so much silver plate or other tangible Pentagon property—that was given to the public in the case in which Dr. Ellsberg stands accused of violating the law. "Dr. Daniel Ellsberg got the papers and decided, assurance or none, law or not," Mr. Smith remarks, "he had the right to publish them. Thus, the Pentagon Papers appeared . . . which I was glad happened." We are glad, too. Being in the business of publication, we are strongly on the side of making the public's business public. But the publication of private papers presents an essentially different problem. We are also in favor of protecting the privacy of private citizens against intrusions by their government.

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Media

Reporting

Prize to

Timesman

By Phil Casey

Former U.S. Attorney-General Ramsey Clark, speaking at an award ceremony honoring New York Timesman Neil Sheehan for his reporting on the Pentagon Papers, said yesterday, "The main question is whether people can see the truth in time."

And U.S. Rep. William Moorhead (D-Pa.) proposed a system for getting the news to people in time. He said he is considering introducing legislation which would limit the number of years that classified information can remain classified. There would be a "Classification Commission" to decide on what can be classified beyond three years.

He said the present system of classification of information is "in utter disarray."

He spoke at the first annual presentation of the Drew Pearson Prize for Investigative Reporting. The award is \$5,000. The Drew Pearson Foundation is headed by Mrs. Drew Pearson, widow of the famed investigative columnist. Jack Anderson, Pearson's long time associate, and former Sen. Wayne Morse are among the members of the board of directors.

Clark told the luncheon crowd of about 300 that we "are long past the age of anxiety and almost at the age of incoherence." The fact that the government withholds information of vital concern for long periods renders us incapable of serious judgment and action, he said.

"Freedom is a means to an end," he said. "Truth is the flower of freedom and freedom is the flower of courage."

Jack Anderson said Sheehan "didn't violate security, he violated censorship . . . things are being swept under a security label . . . security has become sacred in our society."

The American people suffer from this lack of knowledge, he said, "and that's not security."

Sheehan, accepting the award, said, "Ours is not the highest of callings. We do not serve humanity with the selflessness of the priest or the life-saving gift of the physician. We frequently do evil. We publish falsehood, our own, and that of others. We bring pain and embarrassment to those who are named in our often erroneous accounts of events."

"In his decision in June of 1971 upholding our right to publish the Pentagon Papers, Judge Murray Gurfein of New York spoke of 'a cantankerous press, an obstinate press, a ubiquitous press.' Those are not pleasant words and I suspect that Judge Gurfein did not mean them to be entirely complimentary. Yet I choose to regard them as one of the finest compliments that can be paid free journalists."

"For those words imply that, whatever our faults, we seek, when we can, to do our duty as we see that duty to be the best of our ability. Those words imply that whatever evil we do, we do a greater good."

And he concluded, "I believe that in publishing this history of the Vietnam war

we gave to the American people, who have given to those who governed them 45,000 of their sons and \$100 billion of their treasure, a small accounting of a debt that can never be repaid."

"But if to report is to be called theft and to publish it be called treason, then so be it. Let God give us the courage to commit more of the same."

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(Mount Clipping in Space Below)

Individual freedoms attacked

Whenever one individual sacrifices a little bit of freedom, all of us share in the loss. What the government succeeds in doing to one person, it can then apply to anyone else.

And the government has been trying some things lately that should bother all Americans, regardless of politics. Concern for our personal liberties is not limited to those of any one political point of view. Consider today's column by Holmes Alexander, our most conservative writer, in favor of the right of privacy.

But the onslaughts are many.

For one thing, some college professors who use confidential sources to gain material for books and papers now find that

the government is interested in where they got their information. The professors are claiming confidentiality is as important to them and their work as it is to journalists. It is a telling point.

Then there's the case of the Ellsberg paper delivered at a November, 1970, seminar of the Council on Foreign Relations.

Dr. Daniel Ellsberg, who has admitted he gave the secret Pentagon study of the Vietnam war to the press, addressed the council on a matter that reportedly had nothing to do with the Pentagon papers.

The council is a large study group whose members include prominent scholars, journalists and public officials. It analyzes international issues under strict rules of confidentiality and then issues position papers to the public.

About two weeks ago, the Federal Bureau of Investigation subpoenaed the council for a copy of Ellsberg's paper. The council, headed by David Rockefeller, delivered. Some of its members, including former Supreme Court Justice Arthur J. Goldberg, have charged a threat to constitutional rights.

(Indicate page, name of newspaper, city and state.)

p6 "The Daily Times"
 Delaware County, Pa.

Date: 11/13/71

Edition: 96th Year, No. 59

Author:

Editor: Arthur Mayhew

Title:

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or

Classification:

Submitting Office:

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☐ Being Investigated

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And in Boston the FBI last week swept down on the financial records of the non-profit Beacon Press and its parent organization, the Unitarian Universalist Association.

Beacon Press published the "Senator Gravel Edition of the Pentagon Papers."

Sen. Mike Gravel (Dem.-Alaska) is going to court to have the FBI agents held in contempt. "The manner in which this was done smacks of police state tactics," he said.

And UUA officials charge government violation of the First Amendment guarantees of freedom of religion and freedom of the press.

It is important for the typical citizen to remember that whatever government excesses he permits or excuses because they are being used against those with whom he disagrees may someday be used against him.



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War Papers Disclosure Barred

By Sanford J. Ungar
 Washington Post Staff Writer

A federal judge yesterday upheld the government's refusal to release the final four volumes of the Pentagon papers, which deal primarily with American diplomatic efforts through other governments to obtain the release of prisoners of war in Vietnam.

U.S. District Court Judge Gerhard A. Gesell granted judgment for the government on lawsuits brought by two congressmen and a journalism professor at the University of Missouri under the Freedom of Information Act.

Gesell said that he had accepted the Defense Department's assertion that the material in the four volumes "could, if disclosed, result in serious damage to the nation by jeopardizing the international relations of the United States."

"The public's right to be informed cannot be transposed into a legal requirement that all governmental papers will be automatically revealed," the judge said.

Gesell ruled last June that The Washington Post was entitled to print articles based

on the secret Pentagon study of the Vietnam war, because the government had failed to show in court that such disclosure was a threat to national security.

Legal observers regard Gesell's earlier opinions in the Pentagon papers case—when the Justice Department sought to enjoin publication—as among the firmest in upholding strict interpretation of freedom of the press.

On two occasions, he refused to stay his decision even momentarily while government lawyers sought review of them by the U.S. Court of Appeals here.

But in yesterday's decision, Gesell drew a distinction between the main body of the Pentagon papers and the four "diplomatic" volumes, which never came into the possession of The Washington Post, The New York Times or other newspapers.

His ruling also applied to deletions made by the Defense Department from the other 43 volumes of the papers, which were formally released in September after a high-level declassification review.

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Those deletions, the government said in an affidavit recently submitted to the court, fell into four categories: "Information concerning the United States military plans;" "Information concerning joint planning of defense arrangements by the United States with other countries;" "Information concerning United States diplomatic negotiations with high-level officials of other countries;" and "Information derived from United States intelligence."

Much of the deleted material has already appeared, however, in another edition of the Pentagon papers, released by Beacon Press in Boston, after a near-complete set of the study was turned over to the publisher by Sen. Mike Gravel (D-Alaska).

The suits under the Freedom of Information Act were brought by Reps. John E. Moss (D-Calif.) and Ogden R. Reid (R-N.Y.) and by Paul Fisher, director of the Freedom of Information Center at the Missouri School of Journalism.

They argued that as legislators and citizens they had "a

right to inspect and copy the requested documents."

But Gesell, finding that the withheld portions of the Pentagon papers fall under exemption to the information act, said, "Obviously documents involving such matters as military plan and foreign negotiations are particularly the type of documents entitled to confidentiality . . . Government, like individuals, must have some degree of privacy or it will be stifled in its legitimate pursuits."

The judge also rejected the congressmen's suggestion that he inspect the disputed documents in secret before making his decision. "It is entirely foreign to our traditions to place papers in the hands of a judge for his private . . . inspection, excluding them from the eyes of the litigants."

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Around the Nation

N.Y. Drug Hauls

ALBANY, N.Y.—More than a ton of marijuana and 5,000 LSD tablets were seized in raids in Rensselaer and Greene Counties Sunday night, state police reported. Twelve persons were arrested.

In Athens, N.Y., troopers said, 22 bales of marijuana weighing 1,200 pounds and having a value of \$250,000 on the open market were confiscated, along with a quantity of LSD.

Seized at Nassau Lake were an estimated 2,000 LSD tablets, along with marijuana. Quantities of both drugs also were found in a Troy raid.

Addenda

• TUCSON, Ariz. — The New York Times was named recipient yesterday of the 1971 John Peter Zenger Award for its publication of the Pentagon papers.

The announcement marked the first time in the award's 18-year history that it went to an organization rather than to an individual.

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TIMES WINS AWARD ON PRESS FREEDOM

For its publication of the Pentagon papers, The New York Times has been chosen as the recipient of the University of Arizona's annual John Peter Zenger Award for "distinguished service to freedom of the press and the people's right to know," the university announced yesterday.

The selection of The Times as the 18th recipient of the award, established in 1954, is the first instance of its being won by an organization rather than an individual.

A. M. Rosenthal, managing editor of The Times, is scheduled to accept the award at a dinner meeting of the Arizona Newspapers Association on Jan. 14 in Scottsdale, Ariz.

The award is named for the Colonial printer whose acquittal of libel charges in 1735 was the first major victory leading to the establishment of a free press in the United States.

The Times was among several nominees for the 1971 John Peter Zenger Award proposed by its 17 previous winners. Subsequently, more than 100 editors and publishers from all parts of the country voted on the nominees and chose The Times, according to Philip Mangelsdorf, head of the journalism department at the University of Arizona.

James Reston and Arthur Krock of The Times are previous winners of the award, in 1963 and 1966 respectively.

The award was established by the late Douglas D. Martin, who was head of the university's journalism department.

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Firing of Rand Chief Tied to Pentagon Leak

Harry S. Rowen was fired as president of the Rand Corp. yesterday in a move apparently prompted in part by congressional criticism of the think tank's management and by one of its former employees leaking the Pentagon Papers.

The formal Rand announcement, however, did not mention any of these possible causes. The Santa Monica Corporation said in its release that Rowen had asked to be relieved of his responsibilities within the next 18 months.

But the same Rand press release said J. Richard Goldstein, senior vice president of the corporation, "will be responsible for the management and direction of the corporation."

Rand's Board of Trustees made the decision to replace Rowen at its semiannual meeting last week.

Sources knowledgeable about the inner workings of Rand said there had been a power struggle going on in the hierarchy for some time, with the direction of research and its management key issues.

Rand long has been the Air Force's think tank, conducting studies for it on many kinds of strategic weapons

and the best way to use them in different wartime situations.

Recently, under Rowen's direction, domestic problems have received increasing attention of Rand researchers.

Daniel Ellsberg, who has admitted he gave the Pentagon Papers to the press, once worked for Rand and helped write the papers while on special duty at the Pentagon.

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UPI-58

(RAND)

SANTA MONICA, CALIF.--THE PRESIDENT OF THE RAND CORPORATION "THINK TANK" RESIGNED MONDAY IN A REORGANIZATION OF THE INSTITUTION. A SPOKESMAN DENIED THE CHANGES WERE THE RESULT OF THE PENTAGON PAPERS LEAK.

HENRY ROWEN, 46, PRESIDENT OF THE CORPORATION SINCE JAN. 1, 1967, SUBMITTED HIS RESIGNATION, EFFECTIVE WITHIN THE NEXT 18 MONTHS AFTER A SUCCESSOR HAS BEEN FOUND.

ROWEN, FORMERLY A RESEARCH ASSOCIATE AT HARVARD UNIVERSITY, WAS DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR PLANNING AND NATIONAL SECURITY AFFAIRS FROM 1961 TO 1965 UNDER DEFENSE SECRETARY ROBERT S. MCNAMARA, AND ASSISTANT DIRECTOR OF THE BUREAU OF THE BUDGET UNDER FORMER PRESIDENT JOHNSON.

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WASHINGTON CAPITAL NEWS SERVICE

Around

A-31

Action

3 Shot in Holdup

NEW YORK—Three people were shot and wounded today when gunmen held up a bank in Wild West fashion, pumping bullets through the ceiling before escaping with an estimated \$15.

Five other people suffered minor injuries when they were struck or fell.

Police said up to six bandits, armed with automatic weapons and shotguns, were involved in the raid on a branch of the Harlem Savings Bank on Manhattan's Upper West Side.

The wounded included a police sergeant who was shot in the stomach when he drove up to the bank and ran into a hail of gunfire from the emerging gunmen.

A woman was also hit in the abdomen.

Police Arms Curb

SAN FRANCISCO—(AP)—Police Chief Donald M. Scott regulations limiting use of firearms by policemen and calling for automatic suspension of officers involved in fatal shootings.

Scott, named to his post last September, said Tues-

day the proposals are patterned after recommendations of the President's commission on Law Enforcement and Administration of Justice.

Policemen would be prohibited from firing weapons as a warning. They would have to "exhaust all other reasonable means of apprehension and control" before using guns, Scott said.

Threat to RPK Heirs

SYRACUSE, N.Y.—A Czechoslovakian refugee has pleaded innocent to threatening the family of Mr. Robert F. Kennedy, widow of the New York senator, in interstate telephone calls.

Karel Skacel, 54, of Syracuse, was released on 5 per cent payment of \$5 bond after appearing before U.S. Magistrate Edward M. Conan here.

In a three-count indictment returned Nov. 23 by a federal grand jury in Bridgeport, Conn., Skacel was accused of threatening to kill Rushton Skacel of Greenwich, Conn., Mrs. Kennedy's brother, and to injure her children.

Holdout to Testify

Idella Marx, mother-in-law of Daniel Ellsberg, has agreed to testify before a federal grand jury in Boston investigating disclosure of the Pentagon papers, rather than face any definite jail sentence for contempt of court.

An attorney for Mrs. Marx said yesterday that she will respond to a subpoena on Thursday morning when the grand jury reconvenes under the terms of an order issued Monday by the First U.S. Circuit Court of Appeals.

Mrs. Marx, who lives in New York, had unsuccessfully resisted the subpoena on the grounds that she may have been the subject of direct or indirect government wiretapping.

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A federal district judge convicted her of contempt in October for refusing to testify, but granted her bail pending appeal. The appeal was ultimately rejected, however, when the Justice Department formally denied Mrs. Marx's wiretap allegation.

Linguistics professor Noam Chomsky of the Massachusetts Institute of Technology filed suit in federal court in Boston Monday, contending that the government has illegally tapped his telephone insisting on restitution and punitive damages.

Chomsky was also subpoenaed in the Pentagon Papers grand jury investigation, but was excused from testifying in October until the Justice Department answers his contention on wiretapping.

From staff reports and news dispatches

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UPI-187

(PENTAGON PAPERS)

WASHINGTON--COUNSEL FOR TWO CONGRESSMEN TODAY ASKED U.S. DISTRICT COURT JUDGE GERHARD A. GESELL TO READ FOUR STILL CLASSIFIED VOLUMES OF THE PENTAGON PAPERS TO DETERMINE WHETHER THEY SHOULD BE MADE PUBLIC.

THE REQUEST, ON WHICH GESELL IS EXPECTED TO RULE NEXT WEEK, WAS OPPOSED BY LAWYERS FOR THE GOVERNMENT WHICH WANTS THE JUDGE TO RELY ON AN AFFIDAVIT DESCRIBING THE GENERAL NATURE OF THE DOCUMENTS.

REPS. OGDEN R. REID, R-N.Y., AND JOHN E. MOSS, D-CALIF., FILED A SUIT JUNE 23 TO COMPEL DECLASSIFICATION OF THE FOUR VOLUMES WHICH THE DEPARTMENT OF DEFENSE MAINTAINS SHOULD REMAIN SECRET.

IN SEPTEMBER, THE PENTAGON RELEASED ALL BUT ABOUT FOUR VOLUMES OF A 47-VOLUME STUDY WHICH DOCUMENTED INVOLVEMENT OF THE UNITED STATES IN INDOCHINA STARTING WITH THE ADMINISTRATION OF PRESIDENT ROOSEVELT.

REID AND MOSS AND ARGUING FOR RELEASE OF THE PAPERS UNDER THE FREEDOM OF INFORMATION ACT WHICH THEY SAY "EXPRESSLY PLACES THE BURDEN UPON THE GOVERNMENT TO JUSTIFY ITS WITHHOLDING OF INFORMATION, AND THE DEFENSE DEPARTMENT MUST BE MADE TO JUSTIFY ITS ACTION IN THIS CASE TO AN IMPARTIAL COURT."

THE CONGRESSMEN AGREE THAT THERE IS A NEED FOR LEGITIMATE GOVERNMENT SECRECY BUT THEY SAID IN A STATEMENT THAT THEY DO NOT BELIEVE "THE EXECUTIVE BRANCH HAS UNBRIDLED DISCRETION TO DECIDE WHAT SHALL BE KEPT SECRET AND WHAT MAY BE MADE PUBLIC."

THEY SAID THE JUDICIAL REVIEW OF SECRECY IS IMPERATIVE IF THE AMERICAN PEOPLE ARE "TO BE PROTECTED FROM UNWARRANTED GOVERNMENTAL CENSORSHIP. WE WILL HAVE ACHIEVED MUCH SIMPLY IF WE PERSUADE THE COURT TO EXAMINE THE DOCUMENTS RATHER THAN ACCEPT THE WORD OF THE GOVERNMENT THAT THEY ARE PROPERLY CLASSIFIED."

GESELL WAS THE FEDERAL JUDGE WHO PRESIDED OVER THE PENTAGON PAPERS CASE INVOLVING THE WASHINGTON POST IN JUNE.

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Read 'Papers,' Judge Asked

Lawyers for two congressmen yesterday asked U.S. District Court Judge Gerhard A. Gesell to read four still-classified volumes of the Pentagon Papers to determine whether they should be made public.

The request, on which Gesell is expected to rule next week, was opposed by government lawyers who want the judge to rely on an affidavit describing the general nature of the documents.

The hearing yesterday stemmed from a suit filed June 23 by Rep. Ogden R. Reid (R-N.Y.) and Rep. John E. Moss (D-Calif.) seeking to force declassification of the four volumes which the Department of Defense maintains should remain secret.

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 The Washington Daily News _____
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SANTA MONICA, CALIF. (UPI)--THE PRESIDENT OF THE RAND CORPORATION "THINK TANK" RESIGNED MONDAY IN A REORGANIZATION OF THE INSTITUTION. A SPOKESMAN DENIED THE CHANGES WERE THE RESULT OF THE PENTAGON PAPERS LEAK.

HENRY S. ROWEN, 46, PRESIDENT OF THE CORPORATION SINCE JAN. 1, 1967, SUBMITTED HIS RESIGNATION, EFFECTIVE WITHIN THE NEXT 18 MONTHS AFTER A SUCCESSOR HAS BEEN FOUND.

ROWEN, FORMERLY A RESEARCH ASSOCIATE AT HARVARD UNIVERSITY, WAS DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR PLANNING AND NATIONAL SECURITY AFFAIRS FROM 1961 TO 1965 UNDER DEFENSE SECRETARY ROBERT S. MCNAMARA, AND ASSISTANT DIRECTOR OF THE BUREAU OF THE BUDGET UNDER FORMER PRESIDENT LYNDON B. JOHNSON.

DANIEL ELLSBERG, WHO ADMITTED LEAKING THE PENTAGON PAPERS TO THE NEWS MEDIA, WAS FORMERLY A RESEARCHER AT RAND. THE JUSTICE DEPARTMENT ACCUSED ELLSBERG, WHO FACES TRIAL ON TWO COUNTS OF VIOLATING FEDERAL SECURITY LAWS, OF MISAPPROPRIATING THE SECRET REPORT ON THE ORIGINS OF THE VIETNAM WAR FROM THE RAND CORPORATION'S FILES.

THE ONLY PERSON TO BE JAILED IN THE PENTAGON PAPERS LEAK WAS ANTHONY RUSSO, A FRIEND OF ELLSBERG'S AND ALSO A FORMER RESEARCHER AT RAND. HE WAS JAILED FOR CONTEMPT OF COURT BECAUSE HE REFUSED TO TELL A FEDERAL GRAND JURY WHAT HE KNEW ABOUT ELLSBERG'S ACTIVITIES.

THE RESIGNATION OF ROWEN AND THE INTERNAL REORGANIZATION OF RAND HAS "ABSOLUTELY NOTHING" TO DO WITH THE PENTAGON PAPERS CONTROVERSY, A RAND SPOKESMAN SAID.

ROWEN SAID HE WAS RESIGNING BECAUSE HE FELT HE HAD ACCOMPLISHED WHAT HE SET OUT TO DO AT RAND--"STRAIGHTEN ITS NATIONAL SECURITY RESEARCH AND APPLY ITS ANALYTICAL SKILLS TO THE URGENT SOCIAL NEEDS OF THE COUNTRY."

IN THE ADMINISTRATIVE REORGANIZATION, THREE DIVISIONS WERE ESTABLISHED, EACH HEADED BY A VICE PRESIDENT. ONE WILL CONCENTRATE ON PROGRAMS FOR THE AIR FORCE, ANOTHER ON ALL OTHER PENTAGON WORK AND THE THIRD ON DOMESTIC, NON-MILITARY, PROBLEMS.

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WASHINGTON CAPITAL NEWS SERVICE

CONFIDENTIAL 1971

How Many Secrecies?

BY EDWARD TELLER

LIVERMORE, Calif.—Here are three examples: the secrecy of the Kremlin, the secrecy of Washington, and the secrecy of The New York Times.

Of the Kremlin secrecy it has been said that it consists of five parts: the military secrets, the administrative secrets, the economic secrets, the scientific secrets and everything else in Russia (which is also secret).

Russian secrecy has old historic roots. It is not a creation of Communism. It is as old as the Russian police state and as Russian Siberia. This working secrecy has a high price in rubles and in human freedom.

Washington secrecy is different. It does not work well. It is probable that the Russian leaders know our secrets. But at home the secrecy of Washington increases the unavoidable confusion of our 200-million-headed democracy.

American secrecy has a short, inconsistent and sorry history of no more than three decades. Those officials who have the impossible job to enforce secrecy in an open society labor with diligence and with discretion. But square pegs won't fit into round holes.

The New York Times secrecy is only a few months old. For weeks newspapermen had their own mini-security. Forty volumes of secrets can not be published by any paper. In tightly guarded sessions it was decided what should appear on the pages of The New York Times. Assuming that the news was fit to print, was the selection made to fit the bias of the editors?

In the process secrets were turned into sensations. Details of agonizing decisions became food for emotion. What should have enjoyed a measure of decent discretion appeared in the glare of secrets exploded.

I used to think that secrecy is incompatible with freedom of the press. But now it seems that our press thrives on secrecy. This "successful" use of secrets has also a high price. We pay for it in a loss of respect for our laws.

The real question is: could we do with fewer secrets? The war in Viet-

nam is the first modern armed conflict which was fought without censorship. This could be a real landmark in establishing freedom of the press. Is the press mature enough for this measure of freedom?

In the last couple of years Washington has tried a more open policy. We were told more about Russian rockets and American mistakes. Should we not go farther along that road? Why should we play with secrecy? Why should we not let American scientists know the facts of which Russian scientists are well aware? Why should we not publish papers before they are stolen? Why can we not keep confidences in a quiet manner and open up the results of technology and the decisions on policy to public view and public criticism?

Efficient government can, of course, not function while the (big?) brother of the television camera is constantly watching. Publication of the planned route of our nuclear submarines would make these vessels useless. Codes for communications with our embassies must be kept secret.

But can we and should we keep any secret for more than a year? Need we put down in form of secret documents every advice and every discussion?

If Washington secrecy is put on a strict reducing diet, the secrecy of The New York Times collapses. Let us leave the serious business of long-term secrecy to the Russians. Even they may get tired of it—some day.

Dr. Edward Teller, associate director of the Lawrence Laboratory at Livermore, Calif., is the nuclear physicist who directed the development of the hydrogen bomb.

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War-papers probe can resume, but Sen. Gravel keeps immunity

By Peter Cowen
Globe Staff

The US Circuit Court of Appeals, sitting in Boston, modifies an earlier order and ruled yesterday that a Federal Grand Jury may resume its investigation into release of the Pentagon Papers.

But the appeals court continued some of its earlier restrictions on the probe.

The court held that Sen. Mike Gravel (D-Alaska) and his staff members could not be questioned, nor could other witnesses be questioned about Gravel's "acquisition, use, publication or republication" of the papers.

Last June, Gravel read before his Capitol buildings and grounds subcommittee portions of the Pentagon Papers study of the origins of the Indochina war.

The appeals court ordered the grand jury inquiry halted late last month pending a ruling on Gravel's contention that attempts to subpoena two of his associates infringed on his legislative immunity.

The ruling covered all activities of the Boston-based Federal Grand Jury that related to the Pentagon Papers investigation.

So when the Court of Appeals

ruled last week that Mrs. Idella Marx, stepmother-in-law of Dr. Daniel Ellsberg, had to submit to questioning by Justice Department attorneys about distribution of the papers, the government asked the court for permission to resume the inquiry.

Ellsberg has acknowledged leaking the papers to the press and the government has sought to question his associates about the matter. He has been indicted in Los Angeles on a charge of illegal possession of classified documents.

Mrs. Marx contended that the Federal government had engaged in illegal electronic surveillance. But after the government said it had not done so, the court ordered her to testify under penalty of contempt.

In another development, Noam Chomsky, MIT linguistics professor, filed suit yesterday in US District Court against Attorney General John Mitchell, FBI Director J. Edgar Hoover and the New England Telephone Co., contending his telephone was illegally tapped.

Chomsky, who is seeking damages in his suit, was subpoenaed in the Pentagon Papers case. But, under a Federal court ruling, cannot be called to testify until the government discloses whether it has gained wiretap evidence against him.

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BOSTON, MASS.

THE BOSTON HERALD
TRAVELER
BOSTON, MASS.

THE BOSTON RECORD
AMERICAN
BOSTON, MASS.

Date: 11/30/71
Edition: Morning
Author: Peter Cowen
Editor: Thomas Winship
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The Washington Merry-Go-Round

Handling Affects Value of War Secrets

By Jack Anderson

Lyndon Johnson is \$1.2 million richer for selling his presidential memoirs while Daniel Ellsberg faces a possible jail term for giving away a different version of the same story.

LBJ's book, "The Vantage Point," contains a detailed account of precisely the facts which government lawyers contended would imperil the national security if published in the Pentagon Papers.

The government's claim was made during the trial of its suit to halt publication of the Pentagon Papers by The Washington Post. The trial was conducted, in large part, behind closed doors.

During one of these secret sessions, Judge Gerhard Gesell asked the government to specify which information in the secret documents would most jeopardize the republic.

In response, the government cited the account of "Operation Mariagold," an unsuccessful 1966 peace initiative. The Pentagon Papers told how the U.S. had sounded out Hanoi about peace through a Polish diplomat.

Thus the government, in the name of national security, sought desperately to suppress the story of "Operation Mariagold." Yet the full story was published, complete with the top-secret details, in LBJ's ponderous book.

Ellsberg has now been indicted for making the Pentagon Papers public. The gov-

ernment is also trying to pin conspiracy charges on the New York Times' Neil Sheehan and his wife, who helped prepare the documents for publication.

Johnson, meanwhile, is riding high on his ranch.

LBJ's Secret Papers

What's more, LBJ is sitting on what may be the biggest collection of classified papers ever assembled by one man. Shortly before leaving office, Mr. Johnson ordered government departments to produce exhaustive material for a history of his administration. He personally hounded subordinates for all their working papers. Joe Califano, a top Johnson aide, was put in charge of the massive research project.

Five years earlier, when Mr. Johnson took over the administration, he insisted that the outgoing Kennedy officials leave their important papers behind.

Yet, Mr. Johnson, upon his departure, took with him every important document he could get his hands on. Even the secret hotline messages the White House had exchanged with the Kremlin were carted off to Texas.

Mr. Johnson used these papers, which, of course, were prepared at taxpayer expense, to put together his book. He was assisted by a government staff, which the taxpayers provide an ex-president.

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Once the manuscript was written, in large part at public expense, Mr. Johnson shopped it around and got publishers bidding against each other. He ended up with a staggering \$1.2 million advance from Holt, Rinehart & Winston.

Mr. Johnson then pulled another fast one. To encourage other contributors, he had offered to put up money out of his own pocket for the library he has built to commemorate himself. He arranged for the book advance to flow through a tax-free foundation into the library as his share of the cost. Thus the \$1.2 million benefited LBJ without costing him a cent in taxes.

Meanwhile, he has now stashed his huge collection of publicly prepared documents in his memorial library.

In all, he has pulled an extraordinary coup. He has made money by revealing information which the government claims is a danger to the nation.

And he revealed it in the most self-serving fashion. So he not only made a bundle off the book, but he extolled his own record in the process.

Both Lyndon Johnson and Daniel Ellsberg made public secret documents, including some of the same documents about the Vietnam war. Mr. Johnson quoted only the selected passages that made him look good. Ellsberg released uncensored documents, which

gave an objective, unvarnished account of the war.

Mr. Johnson collected \$1.2 million; Ellsberg could go to jail.

Headlines, Footnotes

Border Kibbutz — Michael Gorkin, who spent a long summer on the Israeli frontier, has described in gripping detail how children adjust to the constant threat of imminent annihilation. In a forthcoming book called "Border Kibbutz," Gorkin reports that the kibbutz children slept in a bomb shelter whose walls were painted with animals, clowns and toys. They found such security there that visits to the cities, where they could sleep safely in bedrooms, upset them. They felt safer in their shelter under the Arab guns. Gorkin tells about one frightened little boy who was awakened by a violent thunderstorm. The watchwoman finally calmed him by reassuring him: "Don't worry, it's only some bombing."

Presidential Photographer — Five lensmen, listed in the Republican National Committee's weekly publication as staff photographers, are on the White House payroll and, therefore, are paid by the taxpayers. They are Ollie Atkins, Bob Knudsen, Karl Shumacher, Jack Kightlinger and Byron Schumaker.

Bell-McClure Syndicate

Court Permits U.S. to Resume Limited Quiz on Pentagon Papers

By Sanford J. Ungar

Washington Post Staff Writer

A federal appeals court in Boston ruled last night that the Justice Department may resume its grand jury investigation into disclosure of the Pentagon papers earlier this year but placed sharp restrictions on the scope of the probe.

The investigation had been completely suspended by a previous court order on Oct. 29.

Issuing a two-sentence order, the three judges of the First U.S. Circuit Court of Appeals ruled unanimously that,

Dr. Leonard S. Rodberg, a staff aide to Sen. Mike Gravel (D-Alaska), must not be subpoenaed "until further order of this court."

The judges also banned the grand jury from questioning any other witness "concerning the acquisition, use, publication or re-publication of the Pentagon papers" by Gravel or members of his staff.

Gravel called a midnight meeting of his Senate Subcommittee on Buildings and Grounds last June 29 for the purpose of making public the secret Defense Department

study on the origin of the American involvement in Vietnam.

He later arranged for re-publication of the papers by Beacon Press, the nonprofit publishing arm of the Unitarian-Universalist Association.

Since August, Gravel has waged a battle in federal court to prevent what he contended were violations of his own congressional immunity through the use of grand jury subpoenas issued to others.

Yesterday's decision was apparently a temporary and incomplete one, leaving much

answered Gravel's demands for a full public listing of all grand jury witnesses and the questions they are to be asked and for the placing of permanent limits on the grand jury investigation.

But legal observers in Boston said the order represented a tentative victory for the Alaska senator, since it appeared to prevent any inquiry about the Beacon Press edition of the Pentagon papers.

Government sources said last night that the grand jury investigation in Boston would probably resume under the terms of the appellate court restriction—by the end of this week.

At that time, the first witness is expected to be Idella Marx, mother-in-law of Daniel Ellsberg, the man who has acknowledged making the Pentagon papers available to the press. Mrs. Marx was told by the same appellate court last week that she must testify or face a jail term for contempt of court.

The Justice Department had filed a motion with the Court of Appeals yesterday morning, asking that it be permitted to proceed with the questioning of Mrs. Marx and other witnesses under only limited restrictions.

But the court's answer, in the form of last night's order, instituted much broader restrictions than the government had suggested.

For example, it banned altogether the calling of Rodberg, who could have been asked questions unconnected with official Senate business under the terms of the government request.

The court order also appeared to prevent the government from calling Howard R. Webber, director of University Press at the Massachusetts Institute of Technology, who originally agreed to publish Gravel's copy of the Pentagon papers but later backed down

under pressure from a faculty committee.

Gravel has contended in court that Webber and others, while in the grand jury room, could endanger the senator's congressional immunity under the speech and debate clause of the Constitution.

Ellsberg has been indicted in Los Angeles for illegal possession of classified government documents. The Justice Department has said that the grand jury investigation in Boston, like a continuing one in Los Angeles, is aimed at discovering whether other people may have violated the law in connection with the Vietnam war study.

There has been speculation that the Beacon Press edition of the Pentagon papers is included in the scope of the government inquiry.

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Court Limits Papers Case Probe

By LYLE DENNISTON
 Star Staff Writer

The 1st U.S. Court of Appeals has given a Boston grand jury permission to resume its probe of the Pentagon Papers disclosure but has barred it from any study of actions of Sen. Mike Gravel, D-Alaska, or his staff.

In an order issued yesterday, the court went further than a U.S. District judge had gone Oct. 4 to protect Gravel's handling of the secret study on the origins of the Vietnam war.

District Judge W. Arthur Garrity had said the jury could not look into the actions of Gravel or his staff in releasing parts of the papers at a Senate subcommittee hearing June 29. But Garrity had authorized it to probe arrangements made by Gravel's staff for re-publication of the papers in book form.

The Appeals Court's order protects the book publication, too. The "Sen. Gravel Edition" of the Pentagon Papers was published in a four-volume set by Beacon Press Oct. 18.

An aide the Gravel said yesterday that the court's action was an interim order, which could be modified or extended later.

Ban Relaxed

The ruling by the Appeals Court came one month after that tribunal had ordered the Boston grand jury to stop temporarily all aspects of its investigation into possible legal violations arising from the fact that the Pentagon Papers appeared in newspapers and were read in public by Gravel.

This earlier order was relaxed yesterday, so that the grand jury may "pursue its inquiry into crimes relating to the so-called Pentagon Papers."

In its protection of Gravel and his staff, the Appeals Court said the grand jury may not subpoena the senator, or any member of his personal staff or of the staff of the Senate subcommittee he heads, an may not question any other witness about Gravel's "acquisition, use, publication, or re-publication" of the papers.

Action Not Explained

The court gave no explanation for its action. Judge Garrity's Oct. 4 order limiting the grand jury's powers had been based on the clause in the Constitution which says a member of Congress may not be "questioned in any other place" about his "speech or debate" in Congress.

The grand jury has been sitting in Boston for several months, questioning a wide range of witnesses about how the secret documents got out.

A separate grand jury, still sitting in Los Angeles, has indicted Cambridge, Mass., professor Daniel Ellsberg on charges of stealing the documents. He is scheduled to go on trial on that charge sometime next year.

The Justice Department has never made clear the difference, if any, in the probes being made by the two grand juries.

After the Boston jury had summoned Dr. Leonard Rodberg, a staff aide to Gravel, Rodberg and the senator attempted to block the subpoena. They argued that the jury had no power to probe into the official actions of a senator, or any aid given him in those actions by a staff member.

When Judge Garrity permitted Rodberg to be called at least for questioning about the Beacon

Press re-publication, the senator took the case to the Appeals Court.

Besides asking that court to protect re-publication, Gravel had requested an order to spell out the practical means to enforce the ban on grand jury questioning of persons about Gravel's actions or those of his staff. The court order yesterday said nothing about a remedy.

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Delays, Dilemmas Face Prosecution In Ellsberg Case

By Sanford J. Ungar
Washington Post Staff Writer

The Pentagon Papers, revealing the Vietnam policy-making process of five American administrations, were first published by newspapers last June. But the trial of Daniel Ellsberg, research fellow at the Massachusetts Institute of Technology's center for international studies who has acknowledged leading the papers to the press, may just be getting under way next June.

If the Justice Department follows through on plans to prosecute others for disclosure of the secret Defense Department study, the Pentagon Papers—with related charges of political persecution and attacks on secrecy in government—could become an issue in the 1972 presidential campaign.

That would be fine with Ellsberg, who hopes to use the courtroom as a forum to explain why he became an opponent of U.S. policy in Vietnam while working on defense research for the Rand Corporation in California.

The federal Espionage Act, under which he is charged, involves complicated questions of intent and judgment—whether, for example, Ellsberg wanted to harm or to help the nation by revealing the Papers—so the lawyers say that the war itself will be on trial with him.

Although the Supreme Court ruled last June 30 that newspapers were entitled to print articles based on the Pentagon Papers, some of the justices stressed that criminal prosecution of those who revealed classified information could nonetheless be undertaken.

The Ellsberg case is delayed in part because Ellsberg's chief lawyer, Leonard Boudin of New York, will be busy early next year on the Harrisburg Pa. trial of Catholic militancy and allegedly plotting to kidnap presidential aide Henry Kissinger.

But another source of delay has been legal intricacies surrounding the case. The government's two separate grand jury investigations in Boston and Los Angeles—aimed at pinpointing others who may have violated the law—have raised more legal questions than they have answered.

Resolution of those legal issues has already postponed the return of any new indictments in connection with the Pentagon Papers and could cause further delay in the Ellsberg case as well.

Assistant Attorney General Robert C. Mardian, head of the Justice Department's Internal Security Division, has appointed a special three-man task force to conduct the grand jury investigations and to prosecute the cases: Assistant U.S. Attorneys David R. Nissen of Los Angeles, Warren P. Reese of San Diego and Richard J. Barry of Des Moines.

During a court hearing in Boston last month, Nissen said the government was after "many, many people," including the "sources, distributors (and) receivers of stolen material."

The prosecutors have declined to identify their specific targets, but speculation and grand jury questions have focused on Neil Sheehan, the reporter who obtained the Pentagon Papers for The New York Times, and on persons involved in arrangements for republication of the papers by Beacon Press in Boston.

Last week, the First U.S. Circuit Court of Appeals in Boston ruled that Idella Marx, who is Ellsberg's mother-in-law, would have to testify in the probe or face an indefinite jail term for contempt of court.

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On the surface, it looked like the first Justice Department victory in the fight over the grand juries. The appellate court said Mrs. Marx no longer had any basis for resisting her subpoena after the government stated that she was not the subject of direct or indirect wiretapping.

But for the time being, another outstanding order from the same federal appellate court prevents the Justice Department from recalling Mrs. Marx.

That order, now a month old, halted the entire Boston investigation until the Court of Appeals decides a case in which Sen. Mike Gravel (D-Alaska) seeks to place permanent restrictions on the grand jury.

On the eve of the Supreme Court decision last June, Gravel held a midnight session of a Senate public works subcommittee he chairs for the purpose of making the Pentagon Papers public.

The record of that hearing, dubbed the "Gravel Edition" of the Pentagon Papers, was released last month by Beacon Press, the non profit publishing arm of the Unitarian-Universalist Association.

But the Alaska senator contends that his own congressional immunity was endangered when the grand jury subpoenaed a staff aide and others connected with the Beacon edition.

Gravel also charges that the Justice Department has violated the constitutional separation of powers by using an arm of the judiciary—the grand jury—to perform the executive branch's investigative work against the third branch, Congress.

Several other complex legal problems will remain for the government after the Gravel case has been resolved.

Professors Richard Falk of Princeton and Noam Chomsky of MIT, for example, claim they were overheard during conversations with defendants in other cases where the government has acknowledged wiretapping.

A federal district judge in Boston found that assertion convincing and said that neither Falk nor Chomsky need testify until the Justice Department says whether or not they were subject to electronic surveillance.

Should the government admit overhearing them, but still press for their appearance before the grand jury, a federal court would have to determine whether the precise questions to be asked them resulted from the taps. Any such questions would be against the law.

Another issue has been raised by some subpoenaed witnesses who have claimed that as journalists they have an absolute right under the First Amendment to protect sources and avoid testifying.

These witnesses include David Halberstam, a former New York Times reporter and Harpers Magazine staff member who is writing a book about American policy in Vietnam, and K. Dun Gifford, a former aide to Sen. Edward M. Kennedy (D-Mass.) who is chairman of the board of a newspaper to be launched next year.

University scholars who have been subpoenaed, most notably Harvard government professor Samuel L. Popkin, are asserting a similar First Amendment right, saying their sources of information will dry up if they must appear before grand juries.

The Unitarian-Universalist Association has also served notice that it will challenge the government's subpoena of its bank records on the grounds that it violates the freedom-of-religion clause of the First Amendment.

One of the most serious re-buffs to the government thus far was the recent decision by U.S. District Court Judge Warren J. Ferguson in Los Angeles that Anthony Russo, a close friend of Ellsberg, need not testify before the grand jury unless he is provided with a transcript of what he says.



United Press International

Daniel Ellsberg tells press conference that, although he doesn't want to go on trial or to prison in the Pentagon Papers case, he thinks some good might come from his trial, expected some time next year.

ORDER IS VACATED IN ELLSBERG CASE

But Relatives' Silence Could
Spur New Contempt Move

By ROBERT REINHOLD
Special to The New York Times

BOSTON, Nov. 24 — A contempt order against Mrs. Idella Marx, mother-in-law of Dr. Daniel Ellsberg, was vacated today by the United States Court of Appeals for the First Circuit.

However, the three-judge panel opened the way for further contempt action against Mrs. Marx if she continues to refuse to testify before a Federal grand jury looking into the release and distribution of the Pentagon papers. Dr. Ellsberg has said that he turned over the secret documents to the press.

The court held in effect that Mrs. Marx, one of several recalcitrant jury witnesses, had not been given her full rights in the earlier proceedings. It also held that a new Government assertion that she had not been called as a result of wiretapping removed her ground for further refusal to testify.

It may be some time before she can be recalled. The jury has been enjoined since Oct. 29 from taking any testimony on the Pentagon papers case until the court rules on a claim by Senator Mike Gravel of Alaska. He says that the investigation is infringing on his legislative immunity.

Lower Court Action

Mrs. Marx had been held in contempt by a lower court, the Federal District Court for Massachusetts, when she resisted the jury despite being offered immunity against self-incrimination. The Government asserted that she had not been subjected to wiretapping. Evidence from illegal wiretapping is not admissible.

Her lawyer, Victor Rabinowitz of New York, appealed on the ground that the Government's denial of eavesdropping was inadequate since it did not deal with the possibility that she had been summoned on the basis of wiretaps placed on other persons.

During the oral argument before the appeals court on Nov. 10, Warren P. Reese, an assistant United States Attorney, said that there had been no wiretap of Mrs. Marx or anyone else leading to her questioning.

In his opinion today, Chief Judge Bailey Aldrich told the lower court that it could hold the witness in contempt because further refusal on the ground of wiretapping would be "frivolous."

Mrs. Marx has been free on personal recognizance of \$10,000.

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15,000 in Los Angeles back 'set the date' push Out of Asia or out of office

LOS ANGELES — The "Set the Date" anti-war rally at the Sports Arena here Nov. 12 was one of the most impressive anti-war rallies held in recent times.

Numbers, always important in peace actions, were most encouraging, to the sponsors. All 15,000 available seats were filled and perhaps as many as 2,000 people stood in the top galleries, blocks from the platform, to join in the event, and an unknown number of hundreds of others never did get into the meeting because of every available parking space, public and private, was filled.

When Daniel Ellsberg, in the midst of his speech, asked how many in the crowd were under 25, it appeared at least half the crowd raised its hands. Admission to the meeting was reasonable, \$1 or \$2.

The new and old Hollywood personalities were well represented on the multi-media anti-war program. Burt Lancaster was the master of ceremonies.

Donald Sutherland delivered a moving rendition of a passage from Dalton Trumbo's "Johnny Got His Gun," and others who participated included Sally Kellerman, Bill Medley, Len Chandler, Jr., Jane Fonda, Paul Mooney, Cicely Tyson, Bob Doqui, Mike Farrell, Leslie Parrish and Andrew Prime.

Theme of the meeting, in Ellsberg's speech, in the skits, and in Dr. H. H. Brooking's collection talk, was "Get out of Asia in '71 or out of office in '72."

Time and again the audience applauded these calls for political action, and to underscore the practical perspective of the rally, whole sections were made up of political activists from various congressional districts.

The rally was viewed as an auspicious beginning for a massive "set the date" campaign and not just a conclusion of a huge effort to achieve a large turnout.

This week, hundreds of people had already been

in touch with the committee are P.O. Box 35145, Los Angeles 90035, phone 467-2605 to begin the followup work with legislators.

Ellsberg, of Pentagon Papers fame, got a standing ovation upon entering the platform and another at the end of his talk.

He quoted an unnamed congressman who has said, "Let's say we won the war and leave Vietnam." Then he added, "But Nixon says the war is over and he stays."

He told of Laotians who have lived in caves for years never even seeing or hearing the high-flying U.S. planes that rain death on them. "The bombs that force them underground is all they know about America." Then he added, "Only we, through Congress can tell the President the war is visible to us."

Calling for renewed activity on the part of the anti-war forces, he underscored the implied guilt "of all of us who collaborate by silence."

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Business Bulletin/

A Special Background Report On Trends in Industry And Finance

* * *
LEGAL FEES pile up for Daniel Ellsberg as a Boston grand jury investigates his disclosure of the Pentagon Papers. The MIT faculty member is \$30,000 in debt, according to promoters of a defense fund for him. Witnesses called before the grand jury also are in a financial bind. Walter David Halberstam faces a fee of \$2,000 for legal advice; Samuel Popkin, a Harvard professor, is up to \$3,000 so far.

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By ROBIN ADAMS SLOAN

Q: Is it possible that Liza Minnelli is doing an act with someone who is imitating her mother?—G.T., Dayton, Ohio.

A: Not only is it possible, but the person who imitates the late Judy Garland is a man, actor-singer-impressionist Jim Bailey. He calls Liza "my little girl"; she calls him "Mama" and they sing 30 minutes worth of songs together before Bailey does "Somewhere Over the Rainbow" solo. The audience cries, cheers, and openly weeps. Liza says Bailey is "a great talent with a gift from the angels." We can think of one angel who may be spinning.



Q: I bought the Bantam-N.Y. Times edition of "The Pentagon Papers" thinking I had the best of it. A Boston friend says this is wrong; that a small firm is publishing most of the papers. Is this true?—H.W., Brookline, Mass.

A: Yes. As soon as "The Pentagon Papers" ceased to be hot copy, newspapers stopped publishing them. Alaska Sen. Mike Gravel tried to make more documents available, putting 4,000 pages into the record of his Senate subcommittee. Chairman Jennings Randolph was so mad at Gravel for this that he refused to authorize payment for a stenographer. Meantime, six publishers turned away the papers and Simon & Schuster, already committed to put them out, backed down. To the rescue came tiny Beacon Press, a branch of the Unitarian Universalist Association. Beacon can hardly afford to put out the four-volume, \$45 hardcover, \$20 softcover sets, but they are asserting their "social responsibility" in spite of the stiff costs and rumored Pentagon interference.



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Q: What kind of "pop culture" can President Nixon expect when he visits Peking?—D.P., Palm Beach, Fla.

A: Well, he can get the sheet music for the big Red Chinese song hit and learn to play it on the White House piano. The rollicking tune now challenging the Internationale in popularity-by-edit was originally an army ditty. Its title—"Three Main Rules of Discipline and Eight Points for Attention." The President may balk at singing some of the lyrics, which go, "Don't take a single needle or piece of thread from the masses" and "don't take liberties with women."



Q: What is Victor Mature up to? Or is he dead?—T.L., Greenville, Miss.

A: Mature, the handsome leading man to girls like Lana Turner and Betty Grable, is now 55 and semi-retired in Rancho Santa Fe south of Los Angeles where he runs an electrical appliance business. He has come out of hiding to play an aging Mafia chief in a film called "Every Little Crook and Nanny." The man who played Samson and wrestled lions in the old days once described himself as a devout coward. He said: "I wouldn't walk up a wet step."



Q: Guess Frank Sinatra isn't sick after all since he is suing those people who said he was. What else is new with Frank?—H.K., Selma, Ala.

A: Frank Sinatra is not sick; he has even gained a bit of weight lately. He is keeping pace of high social visibility and acting like his old self. He attended the dinner party Aristotle and Jackie Onassis gave recently in Manhattan and threatened photographers snapping his picture outside Jackie's 1040 Fifth Ave. apartment. Frankie said: "Now is the last time I'm going to tell you not to take my picture because next time I'm going to smash your camera." Seems like old times.

Jury Transcript Ordered For Vietnam Papers Figure

By Sanford J. Ungar
Washington Post Staff Writer

A federal judge in Los Angeles ruled yesterday that the government cannot force Anthony P. Russo, an associate of Daniel Ellsberg, to testify before a grand jury there unless it provides the witness with a full transcript of his testimony.

Breaking with a long tradition of absolute grand jury secrecy, U.S. District Court Judge Warren J. Ferguson declared that providing such public transcripts "will not diminish the effectiveness of the grand jury system or interfere with governmental efforts to investigate crime."

Justice Department lawyers in charge of the investigation of disclosure of the Pentagon papers earlier this year declined to commend last night on Judge Ferguson's 18-page decision upholding Russo's refusal to testify in secret.

But sources said that the government is expected to appeal the ruling to the Ninth U.S. Circuit Court of Appeals in San Francisco.

Until such an appeal is decided, the sources said, the Los Angeles grand jury investigation could be brought to a halt if other witnesses who have been subpoenaed raise the same demand for a transcript.

On the basis of yesterday's ruling in Los Angeles, witnesses called before a separate grand jury probe in Boston—also looking into how the Pentagon's secret study of the Vietnam war was made public—were expected to make the same demand.

Ellsberg, who acknowledges making the Pentagon papers available to the press, has been indicted in Los Angeles, but the Justice Department has said it is seeking to identify other alleged offenders through the two grand juries.

Should the issue of grand jury transcripts be appealed to

the Supreme Court—where other issues concerning grand juries are already under review—the government investigations could be held up for as long as a year.

Ferguson's written decision yesterday expanded upon an earlier oral one Oct. 1, when he ordered Russo released from jail in Los Angeles on the basis of the witness' promise that he would testify if he obtained an official transcript later.

Russo, who worked at the Rand Corp. in Santa Monica with Ellsberg, earlier was held in contempt of court by another federal judge for refusing to testify before the grand jury. He spent almost several weeks in jail.

When Russo appeared to

testify Oct. 18, chief prosecutor David R. Nissen refused to comply with Ferguson's earlier oral order, declaring it "unlawful." The judge then took the matter under reconsideration for a month.

In yesterday's opinion, Judge Ferguson rejected the Justice Department's contention that to provide a witness with a transcript would "invade the secrecy of grand jury proceedings and diminish the effectiveness of the grand jury as an institution."

"This court can conceive of no reason why furnishing a witness a written transcript of his testimony should interfere with the valid functions of the grand jury any more than does the existing practice," the judge wrote.

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Rand Chief Quitting; Reason Disputed

By STEVEN V. ROBERTS

Special to The New York Times

SANTA MONICA, Calif., Nov.

15—Henry S. Rowen resigned as president of the Rand Corporation today, and well-informed sources said his departure had been caused partly by Pentagon dissatisfaction with Rand's role in the release of the Pentagon papers.

Officials of the Defense Department, which supplies three-quarters of Rand's \$27-million budget, were increasingly critical of Mr. Rowen after the disclosure of the top-secret papers and made their views known to the corporation's board members, according to the sources.

Dr. Daniel Ellsberg, a former economist at Rand who is a close friend of Mr. Rowen, has conceded that he duplicated Rand's copy of the 47-volume Pentagon study and gave it to the press.

A Rand spokesman said today that "both Mr. [Newton] Minow [chairman of Rand's board] and Mr. Rowen have made it clear that the Pentagon papers matter bears no relationship whatsoever either to Mr. Rowen's initiative or the board's response."

He referred newsmen to a statement in which Mr. Rowen explained his move saying, "Maintaining vitality in institutions and in people is brought about by change—Rand and I are no exception."

Was McNamara Aide

Mr. Rowen, an Oxford-trained economist, served as Deputy Assistant Secretary of Defense under Robert McNamara from 1961 to 1965, and became president of Rand in 1967.

The announcement today said that Mr. Rowen would continue as president for up to 18 months, to allow for the choice of a successor. But "day-to-day" direction of the corporation will be assumed by J. Richard Goldstein, senior vice president.

Rand was organized by the Air Force in 1946 and became an independent, nonprofit research organization two years later. For the first 20 years it was devoted almost exclusively to national security problems, but in recent years it has branched out into the domestic field. Its biggest domestic contract is a \$2-million study for New York City.

Sources within Rand said that Mr. Rowen's departure was

more complex than the announcement indicated. For some time, the sources said, both the board of directors and the corporation's clients have been unhappy with Mr. Rowen's managerial performance.

"There has been a lot of discussion about tightening up budgetary procedures and having more decisiveness, crisper decision making," said one official.

Mr. Minow, who heads the 18-member board that oversees the nonprofit corporation, is a former chairman of the Federal Communications Commission and is now a Chicago lawyer. Other members range from academicians, including Prof. Philip Mosely of Columbia University, to businessmen, including former Gen. Lauris Norstad, now chairman of Owens-Corning Fiberglass.

The 'Last Straw'

Some of Rand's military clients objected to Mr. Rowen's growing interest in domestic issues. "They felt that such projects would collect people on the staff who were antimilitary and reduce Rand's effectiveness as an organization for the military," one source explained.

The disclosure of the Pentagon papers apparently brought matters to a decisive point. "It was the last straw," said one source. Another added:

"People who were not terribly enthusiastic about Rowen's way of doing things came out and fussed and argued more after the papers. In this business it is very important to maintain high mutual confidence between people in Government, in the White House, in the Defense Department—particularly in the Defense Department—and the leadership and Rand. Rowen got very

high marks from some sources and less high marks from other sources."

The Defense Department displayed its lack of confidence in Rand last July, when Secretary Melvin R. Laird ordered the Air Force to take custody of all top secret documents in Rand's possession.

Now, any Rand staff member seeking access to such documents must be cleared by Air Force personnel stationed in the Rand headquarters. In addition, the documents must be perused in a special "top secret control room" and nowhere else. Before July, researchers could take the material to their own offices, although not outside the building.

As part of a government campaign to limit access to classified material, Rand recommended recently that top secret clearance be removed from more than 1,000 staff members and consultants.

The disclosure of the Pentagon Papers, giving details of United States involvement in Indochina, also had a deeply traumatic effect within Rand itself. One reason was that staff members feared the corporation would lose the trust of the Defense Department, and thus its major source of funds. Despite the Pentagon's unhappiness, however, Rand's budget has remained the same as last year.

Moreover, most Rand people remain devoted to the value of defense research, and to an unwritten code of conduct that stresses secrecy, anonymity and "going through channels." The decision of Dr. Ellsberg, who worked for the Defense Department both in Washington and Vietnam, to make the Pentagon Papers public, violated all the basic rules of the code.

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Symposium, Jury Enter the Case

By Sanford J. Ungar

RIVERSIDE, California—Tom Hayden, a founder of Students for a Democratic Society and veteran of the Chicago conspiracy trial, spoke about the peace movement from a hill at the center of this desert campus of the University of California. The noontime breeze was occasionally seasoned with the smell of pot and with the taunts of hecklers from Young Americans for Freedom, but the audience listened attentively.

When the assemblage moved inside the slick new Life Sciences Building, without even a break for lunch, former congressman George Brown, a Los Angeles Democrat, discussed the role of Congress in policy decisions. Mel Gurtov, who began teaching political science here last summer when he left the Rand Corporation, lectured generally about the Vietnam war. Los Angeles businessman Albert R. Appleby related the history of his own maverick antiwar appearances at the annual meetings of some of America's biggest corporations. And another political science professor agonized over the role of the intellectual in policy-making.

The special occasion was not a moratorium or a formal peace rally, but a "Symposium on the Pentagon Papers." Each speaker was reviewing his area of special interest in light of the disclosure of that massive new resource on the war. For five hours, the discussion held a crowd that fluctuated between 250 and 500 undergraduate and graduate students. (A provincial Eastern visitor had to be reminded that nearly every day in Riverside in that beautiful, but he was nonetheless surprised to find that so many people who had supposedly lost interest in the war were willing to spend the entire afternoon indoors discussing it.) Dog-eared and underlined copies of the Bantam edition of the Papers were passed from one person to another, and there were lively questions throughout: Could Gurtov substantiate his assertion that the American involvement in Vietnam was "racist?" Or was Appleby right that it was primarily "economic" and that the Executive Branch had let several major American banks in on some of its plans long before telling Congress?

THE Justice Department, for its part, keeps the controversy alive, here as in Boston, through a federal grand jury investigation. Dr. Daniel Ellsberg has already been indicted for allegedly converting the Vietnam war study to his own use while employed at Rand in Santa Monica, but the government is looking for others who may have been involved ("many, many people," says Appleby, "assigned to the case

said in a Boston court hearing recently). By way of warning to those who might refuse to testify and could ultimately be jailed if held in contempt of court, the special prosecutors—from Los Angeles, San Diego and Des Moines—have made it plain that the investigation here could go on for another year.

Just what is being investigated is less clear here than in the East. A grand jury subpoena is merely an evidence of friendship (or even acquaintance) with Ellsberg or with Anthony J. Russo, another former Rand staffer who spent more than a month in jail for refusing to testify.

Temporarily, there is breathing time for those called before the Los Angeles grand jury. Although not officially blocked by the legal maneuvering of a United States Senator (Mike Gravel, Democrat of Alaska, has the Boston investigation tied in knots pending an appellate court's resolution of how far his congressional immunity extends), proceedings here are unlikely to start up again until U.S. District Court Judge Warren J. Ferguson has resolved a deadlock over whether Russo must be provided with a transcript of his eventual testimony before the grand jury. The judge has ruled in Russo's favor once already, but chief government prosecutor David R. Nissen forced reconsideration by flatly refusing to comply with what he labeled Ferguson's "unlawful" order. In the government's view, the entire tradition of grand jury secrecy is at stake; as Nissen put it during an argument before Judge Ferguson last month, "any witness is free . . . to say anything that he wants to

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about what has occurred in the (grand) jury room. . . . either he can tell the truth or falsehoods." But lawyers for Russo cite that same issue, how to trust the witness, as the reason for providing a transcript to verify a witness's version of what went on.

ONCE the Russo dispute is resolved—and, like the challenge brought by Gravel in Boston, it may have to go to a federal court of appeals first—other, thus far recalcitrant witnesses may face some difficult decisions. "I will have to choose between Dan (Ellsberg) and my principles, on the one hand, and my family on the other," one person who has been subpoenaed said in an interview. "I don't have anything to add to their case, but I still think this use of the grand jury is wrong. But what good would it do for me to go to jail?"

In place of the excitement which seems to pervade those close to the investigation in Boston, the play-by-play fascination with each courtroom gain or setback, there is a glumness among those whose routines have been interrupted by the Los Angeles grand jury. They are convinced that the Justice Department will not back off, but will press the Pentagon Papers prosecution to substantial lengths.

Federal District Judge W. Matthew Byrne Jr. has only just begun reviewing defense motions filed in the Ellsberg case, which is expected to come to trial in Los Angeles sometime next spring, almost a year after the Pentagon Papers first appeared in The New York Times. That would give the West Coast at least one in an election-year series of politically sensitive trials. It is prominently suggested in legal circles here, however, that the government may not want to try Ellsberg alone in California, but instead will return a superceding indictment of him and others in Boston.

(Mount Clipping in Space Below)

AN ANTIWAR RALLY IS HELD ON COAST

Group Seeks to Force Nixon
to Set Withdrawal Date

Special to The New York Times

LOS ANGELES, Nov. 13—A star-studded antiwar rally was held here last night by a newly formed alliance whose goal is forcing the Nixon Administration to set the date for the withdrawal from Indochina by the end of the year.

A spirit of celebration pervaded the rally as 16,000 people packed the Los Angeles Sports Arena to hear Dr. Daniel L. Ellsberg, the featured speaker, make his first major appearance in the state.

The self-confessed distributor of the Pentagon papers called the cheering audience a "second Woodstock nation" and said "we must all tell the President, through Congress, to cast a whole vote against the war in order to purge ourselves of complicity."

He said that a whole vote meant voting against giving the Administration the tools of funding and the draft used to wage the war.

Dr. Ellsberg charged that if the people did not accept the responsibility of ending the war "the same deliberate and secretive decisions" that were made by past Administrations to continue the war in Indochina would be made by the present Administration to "drop the next million tons of bombs that will be dropped by January, 1973."

2-Hour Program

Dr. Ellsberg, who was accompanied by his wife, his parents, and a coterie of close friends, followed Burt Lancaster, who was the master of ceremonies and a two-hour show that included a revue with Jane Fonda, Donald Sutherland, and Sally Kellerman.

The rally was the midpoint in a campaign by the Set the

Date Committee to form a broad-based alliance of ethnic, religious, environmental, youth, labor, business, professional and women's groups. The group plans to adopt the slogan, "Out of Asia in '71 or Out of Office in '72."

The rapidly growing organization, which at present is limited to southern California, calls itself the "new majority" against the war on the basis of a recent Gallup Poll that indicated that 73 per cent of the American people favored total termination of all American involvement in the Vietnam war by the end of the year.

Groups will immediately begin to lobby in each Congressional district to have Representative vote to cut off funds for military operations in and over Indochina and also to end the draft.

The Set the Date campaign, which hopes to spread nationally, advocates that all troops, military advisers and equipment be brought back to the United States now, in return for the release of Americans held prisoner and the promise of the safe withdrawal of American forces.

Last night's rally was scheduled in advance of President Nixon's announcement yesterday that he planned to withdraw 45,000 more United States troops from Vietnam by Feb. 1, leaving a force of 139,000 men there.

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Ellsberg Move

LOS ANGELES — Daniel Ellsberg, central figure in the Pentagon papers case, announced yesterday a new political movement would be launched today to put pressure on Congressmen as well as the President to end the Vietnam war.

Ellsberg told a press conference antiwar demonstrations had succeeded in getting the President to run down the war but pressure was now needed on congress-

men who had the power to end it.

He will be the main speaker at a "Set the Date" rally being organized by labor, ethnic, business, women and youth groups.

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C. D. Brennan

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 The Washington Daily News _____
 The Evening Star (Washington) _____
 The Sunday Star (Washington) _____
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 The Daily World _____
 The New Leader _____
 The Wall Street Journal _____
 The National Observer _____
 People's World _____

Date *11-12-71*

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Editor ties motive to US probe

By Coleman Sullivan
Globe Correspondent

Federal investigations into a Boston publishing firm's edition of the Pentagon Papers was intended to aid the government in the preparation of its own version, Beacon Press Editor in Chief Arnold Tovell said last night.

"What they really wanted was an opportunity to see what we were going to publish as an influence in what they were going to publish," Tovell told the Cambridge Forum, sponsored by the First Parish Church.

Beacon Press, the publishing arm of the Unitarian Universalist Church, obtained the papers from Sen. Mike Gravel (D-Alaska) and published them in its largest venture as a non-profit company.

Tovell said that he did not actively solicit the material, but was informed of its availability by a Gravel aide.

The editor said it was not until a month after Beacon announced its intention to publish the Pentagon Papers that Federal agents came to his office to make a case against the action.

Earlier this week it was revealed that Beacon press bank records had been scrutinized by the FBI.

Tovell charged that the government edition of the papers was a "useless, sanitized" one in which page numbers were not marked and deletions not always noted making their interpretation difficult.

"The government edition would have been censored differently if they had the opportunity to see the Beacon Press edition," Tovell said.

The amount of Federal money and time used in Grand Jury investigations in Boston and Los Angeles of the Pentagon Papers release to the press was outrageous, he added.

"If the Federal government would use the money otherwise, we might be able to have some new thoughts on the information and might be better served," Tovell said.

MIT Professor Noam Chomsky also spoke at the forum, and defended Beacon's action.

"For a generation there has been a contrived inattentiveness to international affairs and a history of imposed secrecy on behalf of executive privilege," Chomsky said.

"But now this publication has created a much more healthy public atmosphere."

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Mr. Casper _____
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Mr. Tavel _____
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Mr. Soyars _____
Tele. Room _____
Miss Holmes _____
Miss Gandy _____

(Indicate page, name of newspaper, city and state.)

13 THE BOSTON GLOBE
BOSTON, MASS.

THE BOSTON HERALD
TRAVELER
BOSTON, MASS.

THE BOSTON RECORD
AMERICAN
BOSTON, MASS.

Date: 11/11/71
Edition: Morning
Author: Coleman Sullivan
Editor: Thomas Winship
Title: MC LEK
NATIONALITIES
INTELLIGENCE
Character: Espionage
or 65-5236
Classification:
Submitting Office: BOSTON

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(Mount Clipping in Space Below)

Ellsberg says Nixon should be impeached

By Lucinda Smith
Globe Staff

Dr. Daniel Ellsberg called for the impeachment of President Nixon yesterday in an impromptu speech before an estimated 5000 anti-war and anti-Amchitka blast demonstrators on the Boston Common.

Ellsberg, who released the famous Pentagon Papers in June, told the rally: "I would like to see impeachment proceedings start right now — two sets of proceedings."

He explained, "One set against President Nixon for his repeated lies and violence to the Constitution of this country and to his countrymen, and the other set against the next president of the United States, to be dated three months from when he takes office." Caster No. 6

Ellsberg continued, "I would like the next President to say he will resign from office if the war is not ended within three months of the time he takes over."

"Nixon is trying to tell us that war is peace. He was elected because he said he had a secret plan to end the war. The next president must have a specific plan. We must demand these plans and all the specifics from all the candidates for president."

Ellsberg received a standing ovation from the protesters, who marched in throngs from all over Boston to demonstrate against the ongoing war in Southeast Asia and against the planned five-megaton bomb blast in Amchitka.

Deputy Supt. of Police Edward A. Doocey estimated the crowd to be about 4000, while sponsors of the peace rally put the number at 8000 to 10,000. Newsmen estimated that about 5000 demonstrators attended the rally.

Former Senator Ernest Gruening of Alaska, one of

two senators to vote against the Gulf of Tonkin Resolution in 1964, described the Amchitka test as "A side issue related to the real issue of President Nixon's indifference to the will of the people."

"The Amchitka blast," Gruening said, "is another example of the chief executive's unresponsiveness to public sentiment. The blast is a wholly useless performance, a complete waste of \$200 million, with no military value whatsoever."

He called on the protesters to "go on with demonstrations like this one to show that the people do not agree with and will not go along with obscene slaughters, such as those in Southeast Asia."

Don Gurewitz, of the Greater Boston Peace Action Coalition, which sponsored the rally, explained that the purpose of the rally was to "make the point the war is not over until every G.I. and every plane is brought home."

"The Amchitka blast," Gurewitz said, "is another example of Nixon's reckless military policies, which we are against."

He said, "the press is co-operating with Nixon. It's hard to read about the war in newspapers nowadays. The newspapers seem to accept the assertion that the war is almost over. m over. Citizens have no other source of information except the media. So we're here in part to be another source of information. The war is not over." Gurewitz said, "we estimate that there are about 10,000 people here. It is not a turnout as big as some other demonstrations, but we're proud of the turnout. It tells us that people know what's happening in Southeast Asia despite the press and despite the politicians, who try to bury the war and tell us it's winding down. It is not winding down."

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Miss Holmes _____
Miss Gandy _____

(Indicate page, name of newspaper, city and state.)

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THE BOSTON GLOBE
BOSTON, MASS.

THE BOSTON HERALD
TRAVELER
BOSTON, MASS.

THE BOSTON RECORD
AMERICAN
BOSTON, MASS.

Date: 11/7/71
Edition: Sunday
Author: Lucinda Smith
Editor: Thomas Winship
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or Espionage
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(Mount Clipping in Space Below)

5,000 Gather on Boston Common

By FRANCINE ACHBAR

An estimated 5,000 people gathered on Boston Common yesterday to protest continuation of U.S. involvement in the Vietnam war and detonation of the Amchitka nuclear test in Alaska.

The rally, organized by the Greater Boston Peace Action Coalition, Peoples Coalition for Peace and Justice and the Student Mobilization Committee, was planned as an anti-war demonstration, but it was expanded Friday to include opposition to the Amchitka test.

Former Alaskan senator Ernest Gruening, long-time opponent of the Vietnam war and a speaker at the rally, called the Amchitka blast "a total waste of \$200 million in an experiment that has no military or any other value whatsoever," and "a revelation of how indifferent the chief executive is to public sentiment."

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THE BOSTON GLOBE
BOSTON, MASS.

1 THE BOSTON HERALD
TRAVELER
BOSTON, MASS.

THE BOSTON RECORD
AMERICAN
BOSTON, MASS.

Date: 11/7/71
 Edition: Sunday
 Author: Francine Achbar
 Editor: John Herbert
 Title: DEMONSTRATIONS
 AT THE BOSTON COMMON

Character:
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Submitting Office: BOSTON

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Dr. Daniel Ellsberg, who later called for President Nixon's impeachment for his conduct of the war, ridiculed the contention that the Amchitka blast was the inevitable result of "technocratic inertia."

"It is not inertia," said Ellsberg. "It is an example of human beings in power. It is the President's decision and it is — to say it is beyond his ability to call it off."

Ellsberg said the Amchitka test was another example "mirroring Vietnam of officials operating in secrecy."

"I'D LIKE TO see impeachment proceedings started right now," he said. "Two sets: One for Nixon for his lies and the violence he has done to the constitution and to his countrymen."

The other impeachment, he said, would be held in reserve for the next President who would have to promise that he would be out of office in three months if the U.S. were not out of Indochina in that time.

Asked if he considered impeachment of the President a serious possibility, Ellsberg said, "It is important for people to realize this power exists.

It is not outside the rules, not outside the system to impeach a President for high crime."

"The President of the United States is not beyond all law and he is not above all power," said Ellsberg. "I think Congress ought to be using it (impeachment power)."

Ellsberg said he would like to see all Presidential candidates promise to end U. S. combat involvement in Vietnam 24 hours after their inauguration, remove all military presence in one month, and terminate all financial involvement in six months.

ATTENDANCE at yesterday's rally compared favorably with other anti-war demonstrations held in February and May of this year, both of which attracted some 3,000 people. But it was substantially lower than the massive demonstrations in April 1968 which attracted 10,000 and the Cambodia protest in May, 1970 which drew 20,000.

Rally organizer Don Gurewitz of the Peace Action Coalition pinned yesterday's attendance at 10,000 (police estimates were half that) and commented that the media and politicians had contributed to reduced activism by giving the

public the impression that the war is winding down.

"But today's turnouts shows how many people know the truth," he said. "They are never going to get rid of us."

Jerry Freiwirth, New England regional co-ordinator of the Student Mobilization Committee said despite the widespread impression that the war is drawing to a close, "300 Southeast Asians are being killed every day, bombing raids in the North have increased tenfold in the last year, and moving the war from the ground to the air does not mean an end."

Yesterday's rally was formed by several "feeder marches" representing various interest groups, some of which held pre-rally gatherings of their own. A women's pre-rally in Copley Square was addressed by feminist playwright Myrna Lamb.

A rally marshal who had been assigned to collect contributions from the labor contingent, at the rally did not do much business. He had arranged police protection for the several hundred dollars he expected to receive, but the labor turnout was small and the marshal collected only \$2 in change. He concluded the anti-war movement was "just about to reach labor on the issue of the wage price freeze.

Several hundred high school students, a group not previously prominent in anti-war demonstrations, joined the rally.

Jon Auerbach, a 16-year-old sophomore at Swampscott High School said he thought that with 18-year-olds gaining the right to vote, people his age were becoming more politically aware.

"THIS COUNTRY needs changing," said Auerbach as he marched across the Harvard Bridge to the rally, "and what a person has to do is try to influence the government. Every bit helps."

Twelve-year-old John Sullivan of East Boston said he didn't want to have to fight in Vietnam and he hoped there

would be no draft by the time he turned 18.

"SOON IT WILL be our generation," he said, "and we have to take over the protests."

Ellen Schreiker, 33, of Cambridge who was wheeling her 2½ year-old son Daniel to the march in a stroller, said she had been going to demonstrations since 1965 and continued to go because, "it's important that the background noise be

kept up at all times. Nixon has to be reminded."

On the Common it was cool, then cold and gray. The organic food cart with its hot cider and vegetable mush, was for outselling the ice cream and popcorn cart parked across the path.

At 5 p.m. there was a moment of silence to observe the Amchitka blast. Thirty minutes later the crowd was gone.



AEC CHAIRMAN James Schlesinger at site of nuclear blast.

Grand Juries:

Strange Doings By the 'Honest Countrymen'

"Grand juries are our only security, inasmuch as our lives cannot be drawn into jeopardy by all the malicious crafts of the devil, unless such a number of our honest countrymen shall be satisfied in the truth of the accusations."

That was the comment in 1682 of John Somers, Lord Chancellor of England, after a grand jury had refused to indict Lord Shaftesbury on charges of treason. In its way, it reflects the traditional view of the grand jury on both sides of the Atlantic: a gathering of the accused man's peers to determine whether there is sufficient evidence to indict him for an "infamous crime"—and to provide him with a shield against over-eager prosecutors.

But recently critics have been raising a multitude of questions about the grand jury as it actually functions in America today:

- Is the grand jury exercising an independent function, or is it merely a rubber stamp for the prosecutor?
- Are minority groups underrepresented on grand jury panels?
- Has the grand jury been used to harass dissident groups and punish unfriendly witnesses who appear before it?

The questions have arisen in connection with recent grand jury actions in various parts of the nation.

In Los Angeles and Boston, grand juries continued to call friends and relatives of Daniel Ellsberg to testify in the investigation of the Pentagon papers case—though an indictment has already been returned against Dr.

Ellsberg. In the Los Angeles operation, Anthony Russo, a friend of Dr. Ellsberg, served a prison term for contempt for refusing to answer questions; his attorney had argued that a continued investigation served no purpose since the Ellsberg indictment had already been voted by the grand jury.

In Boston, efforts to call a wide range of witnesses—from scholars such as Noam Chomsky, of the Massachusetts Institute of Technology, to Dr. Leonard S. Rodberg, an aide to United States Senator Mike Gravel, of Alaska—have raised a host of legal objections. Mrs. Idella Marx, step-mother of Dr. Ellsberg's wife, has refused to testify and has been held in contempt; she faces a jail sentence. Dr. Rodberg's objections to testifying—including the charge that it would violate the separation of powers among the three branches of Government because of his position on Senator Gravel's staff—led to a halt of grand jury proceedings last week, ordered by the United States Court of Appeals for the First Circuit. On Wednesday, that court extended the delay in order to take further testimony on the issue.

In Chicago last week, a circuit judge ruled that a hearing must be held on charges that special prosecutor Barnabas Sears improperly influenced a grand jury. The grand jury had indicted State's Attorney Edward Hanrahan and 13 other law enforcement officers for conspiring to obstruct justice in the handling of a police raid in 1969 in which two Black Panthers were killed.

In Marin County, Calif., a member of a grand jury that returned indictments against Stephen Bingham and six other prisoners in the San Quentin shoot-out (in which George Jackson died) claimed that three members of the jury were friends or relatives of prison officials or law enforcement officers and should have been disqualified.

In its first decision day in October, the United States Supreme Court re-

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Date **NOV 7 1971**

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fused to inquire into the make-up of New York state grand juries—which had been charged with being unrepresentative of the ethnic and economic composition of their communities.

Though the make-up and operations of grand juries vary somewhat from state to state, they generally follow this model:

The members of a grand jury array (from which the juries, themselves, are selected) are often volunteers picked by court officials. (Petit jury arrays and Federal grand jury arrays are chosen by lot from among lists of voters.) As a result, grand jury members are often friends and relatives of correction officers and others in the legal apparatus.

This selection process serves to militate against blacks and blue-collar workers. The member is typically elderly, white-collar, middle class.

Thus grand jury arrays often come to resemble private clubs — indeed, grand jury associations meet regularly on a social basis. The members have a strong law-and-order orientation, and are not inclined to defy the authorities. Some reforms in the selection of grand juries have been made in recent years (until 1967, for example, a New York grand juror had to own \$250 in property and be 35 years of age). But change has been slow, in part because of lobbying by grand jury associations.

Members of a state array selected for actual grand jury duty get paid about \$12 a day (the figure for Federal juries is \$20) and can serve up to 18 months. Juries vary in size from 16 to 20 or more. They are created at the behest of a prosecutor or judge to hear evidence in a serious crime, to determine whether a suspected person should be indicted. In the overwhelming majority of cases, he is.

The most serious criticism of grand juries in recent months has been directed at the use being made of them by the Justice Department. In addition to the Pentagon papers case, 10 separate grand juries have been conducting investigations into activities of militant antiwar groups throughout the country. Grand juries in Seattle and Detroit were investigating the bombing of the United States Capitol.

A Harrisburg, Pa., grand jury continued to question witnesses about the antidraft activities of the Berrigan brothers. A Los Angeles grand jury was looking into draft counselling by local priests. And in New York, a Brooklyn grand jury called nuns to testify about the theft of F.B.I. documents from its Media, Pa., office. While no one doubts that the Federal Government has the right to conduct such grand jury crime investigations, many of the witnesses called have charged that the questions asked have been based on illegal wiretapping or that the Government is forcing them to incriminate themselves or their friends with only a limited immunity.

Federal courts have issued a series of rulings to protect witnesses. Two Federal courts of appeals (in Philadelphia and Washington) have upheld the right of a witness to refuse to answer grand jury questions which were the products of unlawful government wiretapping. Three other Federal courts have insisted that a witness must be given complete "transactional immunity" (he can never be prosecuted for the transaction he testifies about). The 1970 Crime Control Act provides only "use immunity"—the Government cannot prosecute a grand jury witness on the basis of his specific testimony, but can prosecute if it offers independent evidence of criminality. This issue is now before the Supreme Court.

Lawyers have raised other questions about the grand jury as it currently operates: Should a lawyer be barred from entering the grand jury room with a witness or a defendant? Should hearsay or illegally secured evidence be a sufficient basis for an indictment? Critics of the grand jury say that it should be abolished altogether, as it was in England in 1933, and they have had the support in the past of such legal giants as Felix Frankfurter and Roscoe Pound. The grand jury may be in for a difficult time in the coming months.

—LEON FRIEDMAN

Mr. Friedman is a New York attorney on the staff of the Association of the Bar of the City of New York.



Associated Press

Grand juries were designed to serve as a shield between the accused and over-eager prosecutors. But their actions in recent cases—such as the Pentagon Papers affair, involving Dr. Daniel Ellsberg and Anthony J. Russo, above—have led to charges that the juries have lost their way.

The Continuing Story of the Pentagon Papers

By MIRIAM OTTENBERG

Star Staff Writer

The Supreme Court's decision to share the "Pentagon Papers" with the world triggered a publishing spree which still hasn't run its course.

How much the reading public has actually gorged itself on the mass of documents, charts, narratives and analyses may be something else.

Predicted one publishing industry wit: "This may well be the most unread best-seller in history."

So far, only the first one on the market, actually has become an instant best-seller — and that for just two weeks. Then, the book sellers report, it died.

Already there's some backbiting — the "My edition has more than your edition," sort of thing. One publishing venture has been scratched and there's still one to go. Over all looms the threat of court action, which could spur more sales.

The publishing bonanza has not been limited to the United States. The foreign sale has been brisk, and Bantam Books has sold translation rights to its \$2.25 paperback edition to Denmark, Finland, France, Germany, Italy, Spain and Sweden. A German publisher reported he had 100,000 copies in print.

Court Ruling

The rush to print began immediately after the Supreme Court on June 30 ruled that the nation's press could publish the secret Pentagon papers and stories about them. The decision not only lifted the judicial ban on the Vietnam series, which the New York Times had begun publishing on June 13. It cleared the way for other newspapers to do likewise, and opened the door to book publication of the material.

That was the signal for the book presses to roll as soon as they had something to roll for. And that wasn't long in coming. By a co-publishing arrangement between Bantam Books and the New York Times, a 678-page paperback with 64 pages of pictures started coming off Bantam's presses on July 7.

It contained an analysis written by four Times men and key documents from the Pentagon papers furnished by Dr. Daniel Ellsberg, a former Defense Department ana-

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The Washington Post ☐
 Times Herald ☐
 The Washington Daily News ☐
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 The New Leader ☐
 The Wall Street Journal ☐
 The National Observer ☐
 People's World ☐

Date NOV 7 1971

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lyst now under indictment on charges of stealing the documents and keeping them.

A Bantam spokesman said the first printing was originally set for 200,000 copies, but the demand from book stores was so overwhelming that the plant printed around the clock for three days and thereafter for two weeks. There were finally 1.5 million in print. They haven't all been sold, however, although the Bantam man said the book is selling steadily even now. Time was a factor. Probably the Washington experience was typical. In the rush to get the book to the stores, the District News Co. met a plane bearing the books to Washington at 3 a.m. on July 9, according to a Bantam spokesman, and started delivering them the same day.

"It was instant success," enthused a District News official. "We put out 20,000 in one day and reordered 15,000. We put out 52,000 altogether. If we'd had them all in the beginning, it would have been a complete sellout, but part of the books came too late. We estimate we'll get 11 percent returned."

A spokesman for the five Trover book stores said the sale was fantastic while it lasted, "but when it died, it died completely." He said that 90 percent of the sales came in the first two weeks, when it was a conversation piece. A person who had to think for two weeks whether he wanted the book wasn't going to buy it, he explained.

Despite the book's abrupt death, the Trover man said wistfully, "I wish we had one like that every day."

The material presented in the Bantam edition has been expanded with additional background data and analysis to an 896-page hardback book from Quadrangle Books, Inc. That one is on sale for \$12.50 until Dec. 24, when it goes to \$15. It's been selected by six book clubs ranging from the Book of the Month Club (an alternate selection) to Playboy Book Club and the Lawyers' Literary Guild.

GPO Edition

The next excursion into the Pentagon Papers to hit the street — in a manner of speaking — was the Government Printing Office's 12-volume, 6,995-page set on sale now for \$50. It has been something less than a best-seller.

The Pentagon says what GPO has

published is 95 percent of the first 43 volumes of the 47-volume Pentagon Papers.

What's still classified, according to Pentagon sources, are sensitive diplomatic discourses and various plans and approaches to settlement in Vietnam, as well as the ongoing problems of trying to recover American prisoners of war.

The government edition was ordered printed by the House Armed Service Committee, which got 1,000 sets. Of the other copies, the office of the Secretary of Defense ordered 50 sets, Air Force ordered 15 sets, Navy ordered five, Army three, state 25. Another 525 sets were sent to Federal Depository libraries and 60 sets for international exchange under an agreement with libraries of other countries. The Congressional Joint Committee on Printing ordered 75 sets. As for the public, the Superintendent of Documents ordered 500 sets for public sale. They were placed on sale Sept. 27 and the first order came from a law student at Georgetown University. As of Oct. 29, Superintendent of Documents Robert E. Kling Jr. reported he had sold 308 sets so far, and was selling them at the rate of two or three a day.

Since he broke even when 250 had been sold, he happily reported "we've making a little profit for the taxpayers now."

Gravel Edition

Just about the time government sales were beginning, another controversial additive to the Pentagon Papers publishing boom reached the book stores.

This is the thick four-volume "The Senator Gravel Edition—the Pentagon Papers," published by Beacon Press in Boston. It costs \$45 in hardcover, \$20 in khaki-colored paperback. Senator Mike Gravel, D-Alaska, is the legislator who called a Buildings and Grounds subcommittee of the Senate Public Works Committee into session near midnight on June 29 to read into the record portions of the Pentagon papers. This was before the Supreme Court ruled that the papers could be made public. A Federal court in Boston has been making inquiry into the Beacon Press publication, fought every step by Gravel.

Rather than steering clear of more controversy, Beacon Press has attacked the government edition calling it "misleading," if not useless, as a reference work.

A Beacon spokesman criticized the government version as being a badly reproduced, typewritten manuscript complete with marginal errors, with the papers not consecutively numbered and "some significant pieces deleted."

The Superintendent of Documents, informed of the criticism, said it was reproduced that way in order to be a faithful reproduction of the original copy.

The Beacon official said pointedly that the Gravel edition was typeset and nothing was deleted. Beacon expects the Gravel volumes to have "a continual sale over at least the next two years and be a resource for scholars for decades." Advance sale was reported as "satisfactory, mostly from libraries."

The other volumes planned or published are one step removed from the actual Pentagon Papers, although using them for background. One is "Washington Plans an Aggressive War," issued in hardcover by Random House (\$7.95) and in paperback by Vintage, \$1.95. Its authors are Ralph Stavins, former professor, lawyer and fellow of the Institute of Policy Studies, and Richard Barnet and Marcus Raskin, both co-directors of the Institute. The book reportedly came out of interviews with more than 300 persons and—you guessed it—the Pentagon papers.

That one's in print. The one that was scratched was one Dr. Ellsberg was supposed to do for Dell Publishing Co. He went beyond the delivery date for a proposed 20,000 word introduction that was supposed to put into focus his writings on the Vietnam war, and his \$150,000 contract was cancelled by mutual consent.

There's at least one more to go, however. Simon & Schuster has Ellsberg commenting in prefaces to his own papers marking the change in his attitude from the time he went to Vietnam in 1966 to the present. Theodore Solotaroff, a senior editor of Simon & Schuster and editor of the New American Review, says that judging from interest and advance orders he believes it will be a successful book. It will be titled "The Stalemate Machine: A Commentary on America's Longest War." And is due to be published in January. The Pocket Book edition will come out in the spring, when Ellsberg goes to trial for revealing the Pentagon Papers.

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Sen. Mike Gravel precipitated the latest Pentagon Papers publishing venture when he called a Senate subcommittee into special session and read his captured documents into the record—and himself into a court battle.

Amusements C 5
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Civil Life B 1
Obituaries R 8
6 Sections

FBI Probe of Beacon Files

By Sanford J. Ungar
Washington Post Staff Writer

BOSTON, Nov. 5 — A federal judge here ruled tonight that the Justice Department must suspend its inspection of the bank records of the Unitarian-Universalist Association.

Chief Judge Bailey Aldrich of the First U.S. Circuit Court of Appeals extended his ruling to say that "representatives of the United States" are temporarily banned from seeking to obtain any documents relating to the Pentagon papers through the use of grand jury subpoenas.

Despite an earlier appellate court order suspending the grand jury investigation here, FBI agents had appeared at the New England Merchants National Bank this week to examine the bank accounts of the religious organization and its non-profit publishing arm, Beacon Press.

An FBI agent assigned to the investigation testified under oath today that the purpose of inspecting the bank records was to trace transactions between Beacon Press and Sen. Mike Gravel (D-Alaska).

Last month, Beacon published a four-volume edition of the secret Pentagon study on the Vietnam war from material first made public by Gravel during a midnight Senate subcommittee hearing last June 29.

The agent, "Donald" M. Woodring, testified that he had arranged for bank officers to duplicate records from two of the eight accounts maintained by the Unitarian-Universalist Association and Beacon Press for eventual submission to the grand jury.

"We were interested in the so-called Pentagon papers," Woodring said when pressed in court today by attorney Robert O. Reid, who was representing Gravel.

The agent then answered "yes" when asked if he had been inquiring specifically into the affairs of the Alaska senator.

Gravel, who has fought the grand jury investigation in legal maneuvers here over the past two months, has contended from the start that the Justice Department was attempting to probe his personal legislative business — and allegedly violating his congressional immunity — by subpoenaing others before the grand jury.

The appellate court here has scheduled arguments for next Wednesday on Gravel's at-

tempt to force a public listing of all witnesses to be called before the grand jury and the questions they will be asked.

In a press conference here this morning, Gravel referred the government attorneys assigned to the case as "outlaws" for pursuing the search of bank records while a temporary appellate court order limiting the investigation was still outstanding.

He accused the Justice Department of "outright banditry" and said the Nixon administration was being "spiteful" in its attempt to punish anyone who had anything to do with disclosure of the Pentagon papers.

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11/6/71

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Date **11/6/71**

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Charles L. Fishman, one of Gravel's attorneys, initially went to court here today asking that the government lawyers in charge of the case and any FBI agents who inspected the bank files be held in contempt of court.

After a full afternoon of courtroom argument, Judge Aldrich denied that request, but ruled that the inspection of the bank records must cease.

His ruling came in the form of approval of a written stipulation between attorneys for Gravel and the Justice Department.

The government lawyers attempted after the hearing the limit the stipulation to the Unitarian-Universalist Association and Beacon Press bank records, but at Aldrich's insistence it was extended to include all "documents" that the government might seek to obtain and inspect through the use of a subpoena.

As it is worded, the stipulation also appears to cover any documents the government might seek to obtain here and present before another federal grand jury in Los Angeles which also is investigating the Pentagon papers.

In the meantime, officials of the religious organization announced they would seek court action next week to protect their bank records from subpoena on the grounds that it violates the First Amendment guarantees of freedom of religion and freedom of the press.

Dr. Robert West, president of the country's 238,000 Unitarian-Universalists, appeared at the press conference with Gravel to say "we have nothing to hide" in the bank accounts.

(Mount Clipping in Space Below)

N.E. editors praise papers' publishers

By Richard Weintraub
Globe Staff

NEWPORT, R.I. — The New England Society of Newspaper Editors passed resolutions yesterday praising the New York Times, Washington Post, Boston Globe, Christian Science Monitor and other newspapers for their publication of the Pentagon papers and calling for a change in the US government's policy on classification of documents.

The editors, meeting at here for their 17th annual meeting, commended the newspapers "for their courage in resisting the Justice Department attempt to prevent such publication; in fighting for freedom of the press; and in asserting the right of the American people to know how their government operated in prosecuting a controversial and inconclusive war."

On the subject of classification of documents, the editors said "this society believes that a total reaming of governmental policy on classification and declassification of government documents, giving high priority to the people's right to be informed despite possible embarrassment to individuals, agencies or the administration, necessary to restore the edibility of government." In other resolutions, the editors:

— Said newsmen should not be compelled to betray confidences by the Department of Justice, the courts or any other individual or group; and that protection of their confidences is an integral part of freedom of the press under the First Amendment.

— praised the late Justice Hugo Black as an "outstanding champion of freedom of the press."

The editors, in their first undertaking of resolutions as a society, defeated two

proposals and tabled third. The two defeated proposals involved criticism of Gov. Deane C. Davis of Vermont for a comment he made that was critical of reporting, particularly "interpretive reporting," and a second resolution that implied criticism of publishing materials like the Pentagon papers.

The tabled resolution involved a case in Rhode Island where a mistrial was called after a television broadcast during the empaneling of the jury.

The editors also named new officers for the organization. They are: Richard C. Garvey, editor of the Springfield (Mass.) News, president; Byron J. Israelson, day city editor of the Portland Press Herald, vice president; Sidney B. McKeen of the Worcester Telegram and Gazette, secretary; and K. Robert

K. ROBERT Norling, managing editor of the Concord Monitor and Patriot, treasurer.

Members of the board of governors who were re-elected include Israelson, McKeen and Leonard J. Cohen of the Providence Journal Bulletin. A new member of the board is Joe Mahoney, managing editor of the Lawrence Eagle Tribune.

At a banquet session last night, the society presented its first "Master Reporter" awards. These awards went to Richard Connolly of The Evening Globe, for newspapers with a circulation of over 30,000, and Edward D. Brown of the Newburyport Daily News, for papers with less than 30,000 circulation.

The society created the awards to honor veteran reporters "who through their own choice spend their entire careers in the basic speciality of the newspaper business, reporting and writing the news, and do not move into editing or administration."

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27

THE BOSTON GLOBE
BOSTON, MASS.

THE BOSTON HERALD
TRAVELER
BOSTON, MASS.

THE BOSTON RECORD
AMERICAN
BOSTON, MASS.

Date: 11/7/71
Edition: Sunday
Author: Richard Weintraub
Editor: Thomas Winship
Title: Mc LEK
NATIONALITIES
Character: INTELLIGENCE
or Espionage
Classification: 65-5236
Submitting Office: BOSTON
☐ Being Investigated

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UPI-205

(GRAVEL)

BOSTON--THE DEPARTMENT OF JUSTICE AGREED TODAY TO WAIT UNTIL AN INJUNCTION AGAINST A GRAND JURY INVESTIGATING THE LEAK OF THE PENTAGON PAPERS IS LIFTED BEFORE SEEKING MORE DOCUMENTS.

SEN. MIKE GRAVEL, D-ALASKA HAD FILED A PETITION IN THE U.S. COURT OF APPEALS EARLIER, ASKING THAT THREE FBI AGENTS BE HELD IN CONTEMPT FOR EXAMINING THE RECORDS OF BEACON PRESS, PUBLISHER OF "THE SENATOR GRAVEL EDITION OF THE PENTAGON PAPERS."

GRAVEL'S LAWYER, CHARLES FISHMAN, WITHDREW THAT PETITION AFTER A HEARING, BUT FILED AN AGREEMENT BETWEEN HIMSELF AND ASSISTANT ATTORNEY GENERAL WARREN P. REESE THAT UNTIL THE RESTRAINING ORDER IN THE U.S. COURT OF APPEALS IS LIFTED, THE GOVERNMENT SHALL NOT "SEEK TO OBTAIN DOCUMENTS RELATING TO THE SO-CALLED PENTAGON PAPERS WITHIN ... MASSACHUSETTS FOR THEIR OWN EXAMINATION OR FOR THE USE OF A GRAND JURY."

THE INJUNCTION WILL BE EITHER LIFTED OR MADE PERMANENT AFTER WEDNESDAY, WHEN U. S. DISTRICT JUDGE W. ARTHUR GARRITY HOLDS A HEARING ON WHETHER A GRAVEL AIDE, DR. LEONARD RODBERG, SHOULD BE FORCED TO TELL THE GRAND JURY ABOUT THE SENATOR'S RELATIONS WITH BEACON PRESS.

GRAVEL CONTENDS THAT QUESTIONING RODBERG, WHO WAS HIRED JUNE 29 WHEN THE ALASKA SENATOR READ THE PAPERS INTO THE PUBLIC RECORD, IS A VIOLATION OF HIS CONSTITUTIONAL RIGHT TO INFORM HIS CONSTITUENTS.

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(Mount Clipping in Space Below)

Unitarian checks probed

By Joe Pilati
Globe Staff

The bank records of the Unitarian Universalist Assn. (UUA) and its publishing arm, Beacon Press, have been subpoenaed by the FBI in a move apparently connected with Beacon's publication of the Pentagon Papers, a UUA spokesman said last night.

"We were informed by the New England Merchants National Bank that FBI agents appeared at the bank this week with a grand jury subpoena," said Christopher Raible, UUA director of communications. "Under the authority of that subpoena, FBI agents are examining checks written between June 1 and Oct. 1 of this year by the UUA and Beacon Press."

Raible pointed out that the period covered "is that in which the decision was made to publish the full version of the Pentagon Papers" as released by Sen. Mike Gravel (D-Alaska).

He said representatives of the UUA will be present this morning at the bank's 28 State st. branch "to register our strenuous objection to the continuation of this investigation and to

demand that it be halted." Beacon Press director Gobin Stair also said Gravel would be in Boston this morning to confer with representatives of the publishing house.

Raible, who said he spoke in behalf of Unitarian president Dr. Robert West, added: "We perceive a great danger in the subpoenaing by the government of checks of a religious denomination, particularly as it relates to the

publication of a controversial book."

Beacon Press decided in August to publish the Gravel edition of the Pentagon's study of the Vietnam war after the MIT Press in Cambridge and several other publishers decided against issuing it.

UUA is the parent organization for more than 1000 Unitarian-Universalist congregations in the United States.

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THE BOSTON GLOBE
BOSTON, MASS.

THE BOSTON HERALD
TRAVELER
BOSTON, MASS.

THE BOSTON RECORD
AMERICAN
BOSTON, MASS.

Date: 11/5/71
Edition: Morning
Author: Joe Pilati
Editor: Thomas Winship
Title: MC LER
NATIONALITIES
Character: INTELLIGENCE
or Espionage
Classification: 65-5236
Submitting Office: BOSTON
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Judge Dismisses Citizen Suit Over Pentagon Papers

ATLANTA, Ga. (AP)—U.S. District Court Judge Richard C. Freeman has dismissed a lawsuit which sought \$5 million in actual damages and \$1 billion in punitive damages from the New York Times for publishing the Pentagon papers.

Freeman ruled that only the U.S. attorney general, not an individual, has authority to sue on behalf of the United States.

The suit was filed in June by Atlanta attorney Joe Salem.

As a taxpayer and citizen, Salem contended, he had been injured because the Times' publication of the government report on U.S. involvement in Vietnam had endangered national security, prolonged the war and caused the deaths of soldiers in Vietnam.

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Church Says FBI Probes Bank Records

BOSTON (AP) — The Unitarian Universalist Association, whose Beacon Press plans to publish Pentagon papers released by Sen. Mike Gravel, says the FBI is examining checks written by the denomination.

Dr. Robert West, president of the denomination, said the church had been told by its bank that FBI agents with a federal grand jury subpoena were examining checks written by the Unitarian Universalist Association and Beacon Press.

"The period covered by the subpoena (June 1-Oct. 1) is that in which the decision was made by Beacon Press to publish the full version of the Pentagon papers as released by Sen. Gravel," West said in a prepared statement.

He said the activities of the Justice Department raised "serious questions of church-state separation and freedom of the general issues of government intimidation and repression of dissent."

He said representatives of the denomination will demand that the investigation be halted.

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Court Orders Listing Of Ellsberg's Property

LOS ANGELES, Oct. 4 (AP)
 —An independent inventory of Daniel Ellsberg's records and other property was ordered today by U.S. District Court Judge William M. Byrne Jr.

However, Byrne denied a defense motion to appoint a special master to inventory the property, seized by the FBI last month.

The defense had requested the inventory so it can prepare for possible motions to suppress the evidence in the case of the former Rand Corp. employee, who is under federal indictment for unauthorized possession of the so-called "Pentagon papers."

Ellsberg, 40, was not present in court.

The FBI had seized the property under a federal search warrant last Sept. 20 from Bekins Moving and Storage Co. In Monday's proceedings it was revealed that the FBI returned the materials to the Bekins warehouse Sept. 23.

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U.S. Subpoenas Unitarian Fund

Records

By Sanford J. Ungar

Washington Post Staff Writer

The FBI, armed with a grand jury subpoena, is inspecting the bank records of the Unitarian-Universalist Association in Boston.

The FBI inspection, covering eight separate bank accounts of the religious association and its non-profit publishing arm, Beacon Press, is part of the Justice Department's investigation into disclosure of the Pentagon papers.

Sen. Mike Gravel (D-Alaska), who learned of the bank inspection last night, said he will fly to Boston this morning to ask the First U.S. Circuit Court of Appeals to hold the Justice Department in contempt of court.

Gravel contends that the FBI action violates the appellate court's order suspending the grand jury investigation, pending the outcome of the senator's legal effort to place permanent restrictions on the probe of the Pentagon papers.

Beacon Press last month published an edition of the secret Pentagon study on the Vietnam war from material made public by Gravel during a midnight Senate subcommittee session June 29.

As Gravel planned his new court action for today, the religious organization announced in Boston that it would send representatives to New England Merchants National Bank—where the records inspection has been taking place—"to register our strenuous objections."

Attorneys for the Unitarian-Universalist Association and Beacon Press were also reportedly considering their own moves in federal court in Boston.

Statements from both the

association and Gravel last night indicated that the new issue had been injected into the continuing furor over the Pentagon papers investigation—the constitutional separation of church and state.

Robert West, president of the religious organization, which represents some 200,000 Unitarian-Universalists across the country, said, "We perceive grave danger in the subpoenaing by the government of the checks of a religious denomination, particularly as it relates to the publication of a controversial book."

He charged that "serious questions of church-state separation and freedom of the press are raised, in addition to the general issues of government intimidation and repression of dissent."

Gravel, for his part, said, "I think it's wrong. I will use everything in my power to stop them from what they are doing."

The senator has already contended in federal court that the government investigation threatens his own congress-

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sional immunity as well as the constitutional separation of powers among the three branches of government.

Sources said the bank records under examination by the FBI cover the period between June 1 and Oct. 1 of this year, during which arrangements were made for Beacon's republication of the Pentagon papers.

The grand jury subpoena was originally issued on Oct. 28 and covers all checks deposited into and issued from the eight bank accounts in excess of \$5,000.

According to the subpoena, those checks are to be presented before the grand jury next Wednesday, the same day as the scheduled argument on Gravel's appeal before the circuit court in Boston.

The subpoena came to light only yesterday, when bank officials informed the association and Beacon that FBI agents had already begun inspecting the records.

Attorney David R. Nissen of Los Angeles, who is supervising the government's investigation of the Pentagon papers,

reached in Boston last night, said he had no information about the FBI's activities at the bank.

But Nissen said that as long as grand jury proceedings are not resumed, "the FBI is perfectly free to interview anyone" without violating the outstanding appellate court order.

Bank officials could not be reached last night for comment.

Meanwhile, members of the Council on Foreign Relations have reacted angrily to the organization's decision to make available to the FBI a confidential seminar paper by Daniel Ellsberg.

James C. Thomson, a professor of history at Harvard University, yesterday labeled the council's action "outrageous."

"It is counter to normal ethics and to the printed by-laws of the organization," Thomson said after learning that the document had been turned over to FBI agents in response to a subpoena from a grand jury in Boston investigating disclosure of the Pentagon papers.

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FBI Probing Beacon's Bank

The FBI is going through the bank records of the Unitarian-Universalist Association, which runs Beacon Press, publisher of the Pentagon papers as furnished by Sen. Mike Gravel.

Details on Page A3.

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The Washington Post Times Herald A-3
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Goldberg Protests the Surrender of

Ellsberg Paper

By LINDA CHARLTON

Arthur J. Goldberg said yesterday that he was "shocked and surprised" by the decision of the Council on Foreign Relations, of which he is a member, to turn over to Federal authorities a paper delivered at a Council seminar last year by Dr. Daniel Ellsberg.

The council is essentially a large study group whose members, including prominent scholars, journalists and public officials, analyze international issues under strict rules of confidentiality. The Ellsberg paper, delivered at a November, 1970, seminar, was surrendered to the Federal Bureau of Investigation, in response to a subpoena, about two weeks ago.

Mr. Goldberg asked "that a special meeting of the members of the council be convened to discuss this matter and to take appropriate action to repair the abridgement of free speech, association and expression which has occurred, to the extent that it is now possible to do so."

Mr. Goldberg, former United States Representative at the United Nations and former Associate Justice of the Supreme Court, made his comments in a letter to David Rockefeller, the council's chairman of the board, and its president, Bayliss Manning.

Ellsberg Is Disheartened

Dr. Ellsberg, in a telephone interview last night, said he had learned of the council's action "after they'd done it."

He was not so much angry, he said, as pained—"I was very disheartened at one more demonstration of a group of people who have forgotten to put to sleep their own sense of constitutional rights," he said. Dr. Ellsberg is a member of the council.

He said he felt there was a definite and valid distinction between official secrecy and individual privacy. As an example, he said: "I think that McGeorge Bundy's statements as an official, the public very much has the right to know. I would, on the other hand, not challenge his right to speak privately to the Council on Foreign Relations, as a private

McGeorge Bundy was a special assistant to Presidents John F. Kennedy and Lyndon Johnson for National Security offices.

Dr. Ellsberg said he was "very impressed" by Mr. Goldberg's letter. "It's very re-

assuring to me to know that one of my colleagues on the council—and I'm sure there are others—sees this as a threat to his own Constitutional rights," he said.

The council should have seen the threat to its very raison d'être since it exists to promote fruitful private communication with an objective to communicate with the public, enlightening the public, but with some preliminary confidentiality as promoting [these] ultimate interests."

Dr. Ellsberg, the former Pentagon employee who has said that he gave the secret Pentagon study of the Vietnam war to the press, delivered the seminar paper in November, 1970. According to John T. Swing, the council's associate executive director, the Council responded to the subpoena on the basis of legal opinions that there were no grounds for successfully resisting it.

Another participant in the seminar was William P. Bundy, former Assistant Secretary of State for Far Eastern Affairs. Mr. Bundy, who will become editor next year of the Council's quarterly, Foreign Affairs,

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said in a telephone interview yesterday that he had not been present at the seminar session at which Dr. Ellsberg presented his paper.

Mr. Bundy said, however, that he had read Dr. Ellsberg's paper and that it "had nothing to do with the Pentagon papers that I could detect." He said that he felt the council had "no reasonable basis" to resist the subpoena.

Goldberg Disagrees

Mr. Goldberg, however, said in his letter, which he also released to the press, that he disagreed with this legal judgment "and would have so indicated had I been asked my views as a member of the council."

"In any event," he added, "I should have thought that, at the very minimum, the subpoena should have been resisted and Dr. Ellsberg's paper turned over to the Government only after a decision by a court of last resort."

He also said, "I firmly believe that the members of the council should have been consulted and their views ascertained before action was taken."

Speaking for myself, I have not delegated to the officers of the council my Constitutional rights. And I feel that my Constitutional rights have been eroded by this ill-conceived action."

"In light of what has occurred," he said, "I do not see how the council can effectively in the future conduct 'of the record sessions' where speakers 'can freely express their views to council members under rules of confidentiality.'"

Mr. Swing, asked to comment on Mr. Goldberg's letter, said "There is a council policy on confidentiality." But he added that he would not comment "on a letter I have not seen." Mr. Manning could not be reached.

Dr. Ellsberg is under indictment in Los Angeles for the alleged possession and conversion to private use of Government documents. A grand jury in Boston has been investigating how the Pentagon study was disseminated. The subpoena for the council paper was signed by a Federal Court clerk in Boston.

Foreign Relations Group Yields Ellsberg Seminar Paper to F.B.I.

By NICHOLAS GAGE

The Council on Foreign Relations, a study group of prominent Americans who analyze international issues under strict rules of confidentiality, has responded to a subpoena by turning over to the Federal Bureau of Investigation a seminar paper delivered last year by Dr. Daniel Ellsberg.

John T. Swing, associate executive director, said the council surrendered the paper two weeks ago "when advised by our counsel that there were no grounds under which the subpoena could be successfully resisted."

Dr. Ellsberg, once a Pentagon employe and now a research associate at the Massachusetts Institute of Technology, has said that he gave the Pentagon papers on the Vietnam war to the press.

The subject of the seminar contribution was "Escalation as a Military Strategy in Limited War." It was delivered last November—seven months be-

fore publication of the Pentagon papers by The New York Times and other newspapers—in a study group that included William P. Bundy, former Assistant Secretary of State for Far Eastern Affairs, and Helmut Sonnenfeldt, who is on the staff of the National Security Council.

Under the aegis of the council, which has its headquarters at Pratt House, 58 West 68th Street, discussion groups, scholarly papers and studies laid the foundation for the Marshall Plan for European recovery and set policy guidelines for the North Atlantic Treaty Organization.

Humphrey and Westmoreland

The list of 1,500 active members includes more prominent names than any similar group. Among them are Senator Hubert H. Humphrey, Gen. William C. Westmoreland, former Supreme Court Justice Arthur J. Goldberg, David Rockefeller, and Kingman Brewster Jr., president of Yale.

Since its founding 50 years ago the council has emphasized privacy to give members an opportunity to speak freely. An indiscretion by a member can be grounds for "termination or suspension."

As a result the council is host weekly to heads of state, diplomats, high United States officials, political leaders and experts in all fields. Almost all the meetings are off the record.

Discussing the subpoena, Mr. Swing said it was signed by the clerk of the Federal District Court in Boston. A Federal grand jury there has been conducting an investigation since last August on how the secret Pentagon study reached the press.

Mr. Swing said the F.B.I. agents asked the council for a copy of the paper a month ago. "We did not turn it over to them then because we have a council rule on confidentiality which extends to the Government and which we take very seriously," he said.

On the Advice of Counsel

The agents came back with a subpoena two weeks later, he said, "and the decision was made to comply following the advice of our counsel."

He would not say who had participated in the decision. David Rockefeller is chairman of the council's board of directors and Bayless Manning is its president. Mr. Rockefeller, chairman of the Chase Manhattan Bank, is on a trip to Africa and Mr. Manning could not be reached for comment.

After the decision was made and the paper was turned over to the F.B.I., Mr. Swing said, a letter was sent to Dr. Ellsberg telling him what had happened.

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The Wall Street Journal _____
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Date _____

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Asked why Dr. Ellsberg was not told about it earlier, Mr. Swing said that "it had something to do with legal reasons, I believe."

The council is represented by the law firm of Debevoise, Plimpton, Lyons & Gates. Oscar Ruebhausen, the member in charge of council matters, said it would be inappropriate to discuss the advice he gave his client.

Friends of Dr. Ellsberg, who is a nonresident member of the council, said that he was angry that he was not told anything until after his paper had been turned over to the F.B.I. He could not be reached yesterday.

Most Unaware of Step

A sampling of council members yesterday showed that most were not aware of the action on the Ellsberg paper and most declined to comment until they could learn more about it.

Dr. Stanley Hoffman of Harvard, a nonresident member who said he learned about the action "a few days ago," said he was upset.

"What's upsetting is that the council did not see fit to inform its members and did not even make a fuss about turning over the papers," he explained. "I find it appalling that one can't even give a paper before a study group without having it subpoenaed."

George W. Ball, former Under Secretary of State, did not take issue with the council's action. "Any organization of this kind must have trust and confidence in its directors and executive staff," he said. "If they make a decision, we ought to abide by it."

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**Group Releases
Ellsberg Paper
To FBI Subpoena**

NEW YORK (AP)—A paper that Dr. Daniel Ellsberg delivered before a Council on Foreign Relations seminar under strict rules of confidentiality has been subpoenaed and turned over to the FBI.

The council, a private study group of 1,500 prominent Americans, surrendered the paper two weeks ago when advised by its counsel that the subpoena could not be successfully resisted, a spokesman said.

Ellsberg, the former Pentagon employe who has admitted giving the classified Pentagon papers to the press, gave the paper on "Escalation as a Military Strategy in Limited War" at a seminar in November 1970.

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The Washington Post _____
Times Herald _____
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Hearing in Pentagon Papers case is postponed one week by judge

By Walter D. O'Leary
Globe Staff

The hearing scheduled for tomorrow in the United States Court of Appeals in connection with the Pentagon Papers has been postponed by Chief Judge Bailey Aldrich until next Wednesday.

This means that the order by the Court of Appeals halting the Federal Grand Jury investigation dealing with the dissemination of the papers remains in effect at least until then.

Court Clerk Dana H. Gallup said that the court's order actually is in effect until the court makes a ruling on the appeals.

Federal Judge W. Arthur Garrity Jr. had ordered Dr. Leonard S. Rodberg, an aide to Sen. Mike Gravel of

Alaska and Howard Webber, editor of the MIT press to testify before the Federal Grand Jury.

An appeal of these orders was made by attorneys Charles Fishman and Robert Reinstein, counsel for Senator Gravel.

The attorneys claim that Senator Gravel's congressional immunity would be violated if Dr. Rodberg and Webber are compelled to testify.

Judge Garrity had also ordered Mrs. Idella Marx, stepmother-in-law of Dr. Daniel Ellsberg to testify.

Mrs. Marx had refused to offer testimony and was adjudged in contempt of the Grand Jury.

Judge Garrity had ordered that Mrs. Marx be jailed but permitted bail.

Last Thursday, however,

Asst. Atty. Gen. Warren P. Reese moved that the bail be revoked and Judge Garrity granted the motion. Mrs. Marx had posted bail of \$10,000.

Judge Garrity did not order Mrs. Marx jailed immediately.

He gave her until the next session of the Grand Jury to change her mind and offer testimony.

The next session of the Grand Jury had been scheduled for last Monday, but because the Court of appeals issued an order halting grand jury action in the Pentagon Papers case, Mrs. Marx has been granted additional time.

Mrs. Marx will not have to make up her mind until the Court of Appeals makes a ruling on her appeal.

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Miss Gandy	_____

REC-12

(Indicate page, name of newspaper, city and state.)

41 THE BOSTON GLOBE
BOSTON, MASS.

THE BOSTON HERALD
TRAVELER
BOSTON, MASS.

THE BOSTON RECORD
AMERICAN
BOSTON, MASS.

Date: 11/3/71
Edition: Evening
Author: Walter O'Leary
Editor: Thomas Winship
Title: MC LEK
NATIONALITIES
Character: INTELLIGENCE
or Espionage
Classification: 65-5236
Submitting Office: BOSTON

☐ Being Investigated

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Legal Obstacles Blocking Boston Grand Jury

in Its Investigation of the Release of

Pentagon Papers

By ROBERT REINHOLD

Special to The New York Times

BOSTON, Oct. 31 — After nearly three months of investigation, a Federal grand jury looking into the unauthorized distribution and publication of the Pentagon papers appears to be far from completing its inquiry.

By most indications, the jury has become entangled for the moment in an almost impenetrable thicket of legal objections raised by a group of doggedly recalcitrant witnesses.

By Friday evening the proceeding had been forced to an indefinite standstill while the United States Court of Appeals for the First Circuit decided if the jury's efforts were violating the legislative immunity of Senator Mike Gravel of Alaska.

To some, it seemed almost superfluous to stop the inquiry, for during three days of complex legal wrangling last week the jury of 23 mostly dour, middle-aged Bostonians heard hardly a word of testimony, apart from that of one witness who gave little more than his name and occupation.

A Scattering of Subpoenas

In its investigations, the jury has scattered a score or so of subpoenas that have touched many of the scholars, writers and journalists who have provided the intellectual underpinnings of the antiwar movement.

That these were not garden variety witnesses became apparent late Friday when the Government seemed to have driven one of them, Ralph L. Stavins of the Institute for Policy Studies in Washington, into a legal corner to force his testimony.

But Mr. Stavins strode into court with four lawyers and an affidavit that stopped everything. The document was from Dr. Leonard S. Rodberg, a physicist on the staff of Senator Gravel.

In the affidavit, Dr. Rodberg, who is himself a reluctant witness, told how he and C. R. Wallace, an electronics expert who owns the Spy Shop in Washington, had tested the phone at Mr. Stavins's office with a "relative field strength meter" and detected a sophisticated new type of tap on the line.

The judge stayed Mr. Stavins's appearance so that the Government could decide what to do. The law forbids the use of evidence gathered by unlawful wiretapping, and the Government may have to confirm or deny such eavesdropping.

It was the kind of delay that has become customary to David R. Nissen and Warren P. Reese, the affable, California-based Government attorneys on loan to the internal security division of the Justice Department to run the investigation.

Just what the closed-door inquiry is seeking is not fully clear, but the oaths of office filed by the two young prosecutors indicate that they are exploring possible violations of Federal laws against the transmission, retention and use of national defense information and conspiracy to commit such offenses.

So far, it appears that the chief targets are Dr. Daniel Ellsberg, the former Pentagon official who has said he gave the secret war study to the press; Neil Sheehan, who obtained the Pentagon papers for The New York Times, and Mr. Sheehan's wife, Susan, who writes for the New Yorker.

Dr. Ellsberg has already been indicted by a grand jury in Los Angeles for conversion of classified documents. So it is widely assumed that the Boston jury, along with a similar one in Los Angeles, is aimed at persons who helped Dr. Ellsberg distribute the documents or who had access to them before they became public.

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Academic Unease

All of this has caused deep unease in the academic community, where many of the subpoenas have landed.

Some of those who have been called are:

Noam Chomsky, a linguist at the Massachusetts Institute of Technology who is a leading New Left spokesman.

Richard A. Falk, a Princeton professor, who is a frequent war critic.

Mr. Stavins, co-author of "Washington Plans an Aggressive War."

Samuel L. Popkin, a Vietnam expert at Harvard, who is a war opponent.

David Halberstam, a Pulitzer Prize-winning journalist who is writing a history of American involvement in Vietnam.

K. Dun Gifford, who is a former legislative aide to Senator Edward M. Kennedy and a friend of Dr. Ellsberg.

Dr. Rodberg, who transmitted Senator Gravel's copy of the war study to the Beacon Press in Boston for republication.

Most have expressed puzzlement at being summoned and

have raised elaborate and often novel constitutional objections.

Employing some of the most skilled civil rights lawyers in the country, they have invoked First Amendment freedoms, Fourth Amendment protection against illegal search and Fifth Amendment bars against self-incrimination.

The process has settled into a kind of routine: At the appointed hour, each witness takes the elevator to the 11th floor of the main Post Office building, which houses the Federal Courts.

There he generally refuses to testify or to answer any questions of substance.

Thereupon, he goes one flight up to the wood-paneled courtroom of United States District Court Judge W. Arthur Garrity Jr., the genial white-haired jurist who is supervising the grand jury. The witness's lawyers argue that the subpoena should

be quashed, stayed or restricted.

Mr. Reese, the tall, striking Government lawyer, then trots upstairs to defend the jury's sanctity.

Appeals Likely

Sometimes the judge rules for the petitioner, sometimes not. If not, the witness is likely to appeal.

The net effect was that the grand jury members idled away most of last week knitting, reading and lounging in the drab, apple-green jury room.

In an interview, Mr. Nissen expressed some irritation.

"I've been fishing many times," he said, "but never in a grand jury. If I had all the answers, why should I hold an inquiry? The Supreme Court has said that the truth is found at the end, not at the beginning of the grand jury."

Judge Garrity has consistently

dismissed the contention of such scholar-journalists as Mr. Chomsky, Mr. Falk, Mr. Popkin and Mr. Stavins that they should be excused from testifying because the public's right to know demands that they be insulated from the inquiries into the sources of their information, the position taken by full-time newsmen.

Testimony Sought

"We're not trying to sweep away his sources," Mr. Reese said of Professor Falk, who has refused even to enter the jury room. "We desire to question him regarding the unlawful acquisition of Government documents."

About the only person who seemed to be thoroughly enjoying it all was Mrs. Idella Marx.

A beatific looking woman with hair turning gray, she is the stepmother of Dr. Ellsberg's wife Patricia. Mrs. Marx

has refused to testify and has been held in contempt.

"It's the most fascinating thing; I've never been in court before," she said in an interview. "The F.B.I. and the Federal attorneys have been terribly polite."

Moments later she heard the judge order her bail revoked this week.

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Court Halts Jury Probe Of Ellsberg

A U.S. Court of Appeals, in an unprecedented ruling, has ordered a temporary halt in a federal grand jury investigation in Boston into disclosure of the secret Pentagon papers.

The grand jury reportedly has been approaching agreement to indict a New York Times reporter, Neil Sheehan, and Dr. Daniel Ellsberg, a college professor, for publication of the 47-volume study on the Vietnam war's origins.

However, the U.S. Appeals Court for the 1st Circuit said yesterday the probe must stop while the court weighs a complaint by Sen. Mike Gravel, D-Alaska, that at least one phase of the grand jury investigation is unconstitutional.

The appeals court said it will hold a hearing Thursday on Gravel's effort to block any questioning by grand jurors about his decision to issue in book form a copy of the Pentagon papers.

Asks Witness List

Thus, the grand jury apparently will be able to take no action until at least late next week.

Gravel went to the appeals court after a U.S. District judge in Boston, W. Arthur Garrity Jr., turned down his request that the grand jury be barred from asking questions about Gravel's activities with the Pentagon papers — in or out of the Senate.

While Garrity had barred the jury from probing into a June 29 Senate hearing at which Gravel read from portions of the documents, he had refused to extend that restriction to bar questions to associates of the senator about publication of the book, "The Senator Mike Gravel Edition of the Pentagon Papers," issued Oct. 27 by Beacon Press.

The senator has asked the appeals court to force the govern-

ment to disclose the names of witnesses it plans to call before the grand jury. He also requested a guarantee that none of his activities would be the subject of questioning.

While Gravel was winning a temporary victory in the appeals court, Garrity in District Court issued an order adding further complications to the government's conduct of the probe.

The judge temporarily barred subpoenas to two college professors until the Justice Department discloses whether it listened to their conversations with electronic surveillance devices.

Richard Falk, a Princeton professor, and Noam Chomsky, a professor at Massachusetts Institute of Technology, had been summoned to testify about Ellsberg's admission that he gave the secret papers to the newspapers.

Eavesdropping Claimed

Apparently they also were to be asked about their own access to classified government documents.

Falk and Chomsky protested that the government has listened in on some of their conversations and that it should not be able to use evidence gathered that way as the basis for grand jury questions.

Garrity gave the Justice Department a week to reply to the professors' challenge. Both said they talked by telephone, with persons involved in the so-called "Harrisburg Eight" kidnapping conspiracy, and with the North Vietnamese government. Chomsky said he had talked by telephone with an anti-draft organization.

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Gravel Appeals Decision For 'Papers' Investigation

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A-18
By Sanford J. Ungar
Washington Post Staff Writer

BOSTON, Mass., Oct. 28—A federal appeals court here will hold an emergency hearing Friday morning on an attempt by Sen. Mike Gravel (D-Alaska) to halt a grand jury investigation into disclosure of the Pentagon papers.

Gravel appealed to the First U.S. Circuit Court of Appeals this afternoon after a federal district judge denied his request that the government be forced to publish the names of all persons subpoenaed in the investigation and the questions they will be asked.

Gravel, who made public a copy of the secret Pentagon study during a midnight meeting of his Senate subcommittee last June 29, contends that his legislative immunity is threatened by the grand jury probe.

His lawyers pressed the appeal today despite an assurance from the Justice Department that it has no intention of prosecuting Gravel himself.

U.S. District Judge W. Arthur Garrity Jr., denying Gravel's request to halt the grand jury temporarily, told the government today that the grand jury may not question any witness about Gravel's arrangement for republication of the Pentagon papers.

What had been scheduled as a full day of grand jury proceedings today quickly lapsed into courtroom conflict and the refusal of witness to testify.

K. Dun Gifford, a former legislative assistant to Sen. Edward M. Kennedy (D-Mass.), entered the grand jury room but refused to answer ques-

tions about whether he knows Daniel Ellsberg or Neil and Susan Sheehan.

Ellsberg has acknowledged making the Pentagon papers available to the press. Sheehan is The New York Times reporter who first wrote about them last June.

Gifford, also refusing to testify, claimed a First Amendment privilege as chairman of the board of The Morning News.

Garrity is to decide Friday morning whether Richard Falk, a professor of international law at Princeton University, should be held in contempt of court for his refusal to testify before the grand jury today.

Falk refused even to enter the grand jury room and produced an affidavit saying that he believed he had been subjected to government wiretapping.

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Date OCT 29 1971

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JUDGE BARS PLEA IN PAPERS INQUIRY

Rejects Gravel's Motion to
Halt Grand Jury Study

By ROBERT REINHOLD

Special to The New York Times

BOSTON, Oct. 28—A motion by Senator Mike Gravel, Democrat of Alaska, to halt a grand jury investigation into the publication of the Pentagon papers was denied today, but Federal District Judge W. Arthur Garrity Jr. barred testimony by two key witnesses for 10 days.

Lawyers for Mr. Gravel immediately filed an emergency appeal with the United States Court of Appeals for the First Circuit, contending that any further testimony might violate his constitutional right not to be questioned about his actions as a Senator. A hearing was scheduled for tomorrow morning.

The appeal capped a day of legal maneuvers by lawyers for the Government and for witnesses called before the three-month-old grand jury, which is investigating possible criminal acts surrounding the disclosure of the secret Pentagon study of the Vietnam War.

One witness, Richard A. Falk, a 40-year-old professor of international law at Princeton University, refused to enter the grand jury room, contending that to testify in secret would jeopardize confidential relationships he depended on for information in his scholarly work on the war. A contempt hearing was set for tomorrow.

Ex-Kennedy Aide Heard

However, testimony was given by K. Dun Gifford, a former legislative aide to Senator Edward M. Kennedy, Democrat of Massachusetts. Mr. Gifford would not comment on his 20 minutes of testimony, but sources close to the matter said he had declined on constitutional grounds to answer such questions as "Did you know Daniel Ellsberg?" and "Do you know Neil Sheehan?"

It is understood that Dr. Ellsberg, the former Pentagon official who has said he gave the Pentagon study to the press, and Mr. Sheehan, whose investigative reporting led to publication of articles on the study in The New York Times, are the chief subjects of the investigation.

Senator Gravel sought to intervene in the case because the jury appears to be looking into how he obtained a copy of the study and later arranged for republication by private publishers. The panel has subpoenaed one of his assistants, Dr. Leonard S. Rodberg, and Howard Webber, editor of the M.I.T. Press. Mr. Webber was approached by Dr. Rodberg over the summer and was asked to publish the study. The Press declined.

Seek List of Witnesses

The Senator's lawyers contend that the activities of the Senator's assistant come under the clause of the Constitution that protects Congressmen against being required to account for their actions. They have asked the Government for a list of all witnesses to be called to determine which have protected information.

Judge Garrity rejected this request today, but he did bar testimony by Dr. Rodberg and Mr. Webber for 10 days pending appeal. He further ruled out for 10 days any grand jury questions into acts by the Senator or Dr. Rodberg as his agent.

For tomorrow, the grand jury has called Noam Chomsky, a linguist at the Massachusetts Institute of Technology; Mrs. Idella Marx, stepmother of Dr. Ellsberg's wife, and David Halberstam, a Pulitzer Prize-winning journalist who is a friend of both Dr. Ellsberg and Mr. Sheehan.

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Date OCT 29 1971

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FBI Questions Reporters on Papers Leak

By DAVID LANDAU

FBI officials have questioned reporters and staff members of at least five newspapers which carried excerpts of the Pentagon Papers.

The probe, which is aimed at uncovering the means by which the once-secret study was conveyed to the press, has apparently been undertaken to increase the government's evidence against Daniel Ellsberg and perhaps obtain indictments of others who helped him distribute the study.

FBI questioning of newsmen, which began shortly after the Papers were published last July, is taking place despite a federal court's ruling earlier this year that reporters are to be exempted from official investigations so that their sources may be protected.

All newspaper spokesmen contacted yesterday, however, said that the FBI had met with virtual non-cooperation in its efforts to procure information from newsmen.

According to reporters and others who were

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1 THE HARVARD
CRIMSON
CAMBRIDGE, MASS.

Date: 10/28/71
Edition: Weekly
Author: David Landau
Editor: M David Landau
Title: MC LEK

NATIONALITIES
INTELLIGENCE

Character: Espionage
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Classification: 65-5236

Submitting Office: Boston

☐ Being Investigated

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approached by federal agents, the most frequently asked questions were:

①What efforts did your newspaper make to obtain copies of the Pentagon papers? Did the papers come without your seeking them?

②What part of the country did the Papers come from?

③What were the sources and "channelization" of the Papers you received?

The FBI investigation of newsmen seems to fly in the face of the "Caldwell principle," which originated with a decision that Earl Caldwell, a New York Times reporter, must be excused from grand jury testimony so that he could protect sources in the Black Panther Party.

While the ruling does not forbid federal agents from questioning reporters, the FBI's activity offers an extra-legal commentary on the extent to which the government is willing to respect the spirit of the Caldwell principle.

Later this week, several professors who have been subpoenaed to appear before the Boston

grand jury, which is investigating the Pentagon papers leak, will ask that they be excused from testimony on the basis of the Caldwell principle, contending that they should be allowed to protect their sources of academic research and writing.

The stated position of the government, which has already won several "Caldwell principle" arguments against academics in the course of its investigation, is that the Caldwell case applies only to full-time journalists. That position would imply that such journalists are to be exempted from the investigation—a concession which seems to be undercut by the FBI's activity.

But since no one is under any legal obligation to talk with federal agents, the FBI's questioning of reporters has reached several dead ends:

James Goodale, general counsel of the New York Times, said yesterday that Times reporters Linda Charlton and Bill Kovach, and assistant news editor Larry Hauck, had been approached by federal agents but refused to talk.

④William Boyd, Washington bureau chief of the Knight newspaper group, said that editors in "at least three cities" where the chain publishes had been approached by FBI men but also declined to say anything.

⑤Richard Dudman, Washington bureau chief of the St. Louis Post-Dispatch, said his paper had received "oblique indications" that federal agents were interested in a discussion, but that the paper then disavowed the possibility.

⑥Robert Healy, political editor of the Boston Globe, said that FBI agents questioned a deskman about the papers, to no avail.

In order to obtain additional information on Ellsberg, an FBI agent in London, England, recently contacted Frank H. Rich '71, who wrote an article on Ellsberg which will be published in the forthcoming issue of Esquire Magazine.

Rich, who is in London this year on a Shaw Fellowship, was editorial chairman of the *Crimson* in 1970.

He said that he was asked a wide range of questions, some of them concerning the copying and distribution of the Pentagon documents. He added that he declined to say anything beyond what he had written in the article.

"Like every journalist who has covered this story, I have picked up bits and pieces of off-the-record information and rumors from a variety of sources," Rich said from London. "But no journalist—myself included—would supply such information to the government."

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UPI-61

(PENTAGON PAPERS)

WASHINGTON--IN A FOOTNOTE TO RECENT HISTORY, NICHOLAS JOHNSON, A MEMBER OF THE FCC, SAID WEDNESDAY THE PENTAGON PAPERS WERE OFFERED TO THE NETWORKS BEFORE THEY WERE PUBLISHED BY THE NEW YORK TIMES.

JOHNSON MADE THE ASSERTION IN TESTIMONY BEFORE THE SENATE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS. HE DECLINED TO ELABORATE FOR A REPORTER.

"I UNDERSTAND THAT THE PENTAGON PAPERS STORY WAS PRESENTED TO THE NETWORKS AND REFUSED," HE SAID IN HIS PREPARED TESTIMONY.

AT ANOTHER POINT IN HIS STATEMENT, HE SUGGESTED THE NETWORKS WERE MOTIVATED BY FEAR OF A GOVERNMENT CRACKDOWN IF THEY CARRIED THE STORY.

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WASHINGTON CAPITAL NEWS SERVICE

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Miss Gandy	_____

Newspapers helped U.S. by revealing documents

Newspapers that published the secret Pentagon Papers and other government documents acted on conscience and did very well by the country, Dr. Daniel Ellsberg, the man who says he leaked the secret Pentagon Papers, declared on a panel discussion during the Associated Press Managing Editors meeting in Philadelphia this week.

Disagreement came from Martin Hayden, editor of the *Detroit News*, and after the discussion the APME awarded the *New York Times* its first Freedom of Information citation for publishing the Pentagon Papers.

A. M. Rosenthal, Times managing editor, said in accepting the award, that the Pentagon Papers were "the property of the people of the United States and by not publishing them we would have deprived the people of information . . . affecting their lives.

"This information . . . represented a treasury of facts, not rumor, not innuendo, not supposition."

Without the information which the Times (and other newspapers) provided, Rosenthal said, the people would not have a clear picture of the events affecting their lives, or a clear basis about which to make decisions about the future.

The panel discussion earlier featured Dr. Ellsberg, Hayden, Dean Elie Abel, Columbia Graduate School of Journalism, and Peter Arnett, Pulitzer prize winning staffer of the Associated Press.

Lively moments

It was a session guaranteed to have its lively moments because of Hayden's opposition to the publishing of the Pentagon Papers, an opinion expressed in a widely printed editorial in the *Detroit News* just prior to the Supreme Court's consideration of the *New York Times* and *Washington Post* cases this past summer.

Indeed there were fireworks when Hayden drew parallels between the recent actions of Ellsberg and those of Senator Joseph McCarthy during the 1950's.

Hayden, who prides himself on having been denounced as a communist by McCarthy on the senate floor, contrasted Dr. Ellsberg's having posed with a tom-mie gun on the edge of the Vietnam jungle (he at one time favored the Vietnam participation) with that of Senator McCarthy when the Senator posed in the gun-pit of a bomber just prior to running for office.

Later Dr. Ellsberg responded to Hayden's implications by saying that if Hayden can't distinguish between the actions of McCarthy and his actions, that Hayden "must be influenced by emotion. I resent that."

He then pointed out that the laws against being sued for libel were recently strengthened in a Supreme Court case, a remark which brought general approval from the audience because of earlier remarks by Hayden concerning his fear of the Supreme Court, the crackdown on the press by Congress.

Hayden condemned the publishing of the Pentagon Papers as a case of "Winning the battle but possibly losing the war." He said he's "scared to death" of Congress enacting stronger legislation along the lines of the Official Secrets Act in Great Britain.

While saying he's against overclassification, Hayden said the system of classification is "Amorphous", "Things do get out. Secrets do get out."

Secrets do leak

The actions of the *New York Times* and *Washington Post*, Hayden maintained, fall "in that spot of gray area" from where secrets do leak. The American people, because of this "are the best informed in the world."

Talking about the Supreme Court's action on the Times and Post case, Hayden said that the Court would have voted otherwise in Congress had passed stricter laws and warned that public opinion might push Congress to pass such legislation.

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65-74060 Page 99

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Dr. Ellsberg, in his remarks, described the Nixon Administration as "Selling the Vietnam war." He said that part of this approach were the ideas that privacy belongs to the Government and not to the individual; the executive branch of the Government 'Is the Government'; the press is an arm of the executive branch; and "Obedience is Freedom."

Dr. Ellsberg maintained that the administration is selling the war to the American people on a "No Loss" basis. The concept pays more attention to the number of American GI's killed as a gauge of the war, than things like what Asian opinion is, the amount of bombing still going on, and the number of new countries involved.

Dr. Ellsberg asked the gathered editors what their past performance has been

with regard to the war. "How critical have you been ~~and~~ have you probed as much as you could have?"

Referring to the press sessions government officials hold to brief the press, Ellsberg asked if the so-called "Backgrounders" had a "manpower affect" on the newsmen who attended.

Then moving on to his present situation, the grand jury investigation in Boston, Ellsberg chided the press for not covering the proceedings.

'Tools of prosecution'

Calling grand juries "more and more tools of prosecution" Dr. Ellsberg asked "why is this not news? Why have you paid so little attention. In the same talk he commended the press for performing better than any government branch, or branch of the private sector.

Dean Abel opened his remarks by reminding Ellsberg that the concept of going to jail for one's beliefs "is not a new tradition" and then referring to the subpoena cases facing the Supreme Court, said he thinks "some reporters will go to jail in the months ahead in defense of an old freedom."

He then challenged Hayden by asking him if press freedom would be any safer now if the Times/Post battle had not been fought, "Each generation must refight this battle," he added.

He said he couldn't see how any managing editor with access to the Pentagon Papers could refuse to publish them. He drew applause when he added that managing editors without access to the papers might have a different position about publishing them.

Abel, who has in his career worked for both the New York Times and Detroit News, warned that the "press must be more skeptical about what officials say," and that no newsmen is obliged to prop up any official of administration or "clap hands" for any president.

Arnett, a veteran of many years of Vietnam reporting, had fewer words than the other panelists but pointed out that most of what appeared in the Pentagon Papers was reported on at various times.

The Pentagon Papers revealed, he said, that the five administrations involved in the World War II were all aware of the alternatives. "All of us who were reporting over there felt we were writing against the times."

In reply to an audience question concerning where he would have drawn the lines on publication of secrets, Hayden said that James Reston of the New York Times should have approached the White House on which parts of the Pentagon Papers were to remain unpublished thus not "precipitating a court battle." The press, he said, "Does not have a license to print anything that comes along." Later he said, "Someone will revoke our licenses."

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Justice Defies U.S. Court, Refuses Transcript for Ellsberg Friend

By Leroy F. Aaronson

Washington Post Staff Writer

LOS ANGELES, Oct. 18—

The government defied a federal court order today in refusing to guarantee a transcript of grand jury testimony to Anthony J. Russo Jr., a friend of Daniel Ellsberg.

Russo, a former colleague of Ellsberg's at the Rand Corporation, was released from prison last week after serving 47 days in civil contempt for having refused to testify on Ellsberg's activities regarding the Pentagon papers.

Russo agreed to testify, but only if he was provided a transcript of his testimony and permitted to make it public. U.S. District Judge Warren

Ferguson granted the unprecedented condition and ordered the government to provide the transcripts.

Today, Russo arrived at the grand jury room to give testimony, but was told by Justice Department attorney David Nissen that the government would refuse to obey the court order.

The scene then shifted back to Judge Ferguson's court, where Nissen claimed that the court lacked authority to make such an order. "If we are forced to give transcripts, the person under investigation would have as much as we do and it would impair the grand jury function," said Nissen.

Judge Ferguson countered

that the question of a secrecy was not at issue, since Russo could divulge on his own what he says before the grand jury. "Isn't it better for accuracy's sake to have a transcript?"

"It might be for Mr. Russo's purposes, but for us it (the precedent) would be devastating," Nissen responded.

Judge Ferguson took the issue under submission for later judgment. Later, Russo told reporters, "Mr. Nissen has set himself up as a judge. The Justice Department now openly, blatantly defied the law."

Russo, who fasted for three weeks while in the federal prison at Terminal Island, adjacent to Los Angeles Harbor, was slim and cheerful during his appearance today.

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U.S. Balks on Giving A Transcript to Russo

LOS ANGELES (AP) — The Justice Department has said it will refuse to abide by a court order to give Anthony Russo a transcript of what he says if he testifies before a grand jury investigating the leak of the Pentagon papers.

The matter yesterday went back to the U.S. District Court Judge Warren Ferguson, who had ordered Oct. 1 that Russo be given a transcript after he testifies. At the same time, Ferguson had ordered Russo released from jail, where he had spent 45 days for contempt of court for refusing to testify.

Asst. U.S. Atty. David Nissen noted that grand jury proceedings usually are secret and told Ferguson that the Justice Department believes "the court does not have the right to make such an order."

He added, "If the grand jury must reveal the nature of its proceedings to the very persons it is investigating, then the investigation must fail."

After arguments from both sides, Ferguson said he would rule later on the issue.

Russo's attorney, Michael Balaban, said that if the government couldn't be forced to produce a transcript, Russo should be ~~purged~~ of the contempt-of-court finding and excused from being required to testify before the grand jury.

The order to disclose the transcript was a condition under which Russo agreed to testify.

Russo was found in contempt this summer for refusing to tell the grand jury about his association with Daniel Ellsberg, who has admitted leaking to the press the secret Pentagon papers on U.S. involvement in Vietnam.

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EX-KENNEDY AIDE CALLED BY INQUIRY

Gifford to Appear Oct. 27
in Ellsberg Case

By NICHOLAS GAGE
Special to The New York Times

BOSTON, Oct. 14 — A former legislative assistant to Senator Edward M. Kennedy, has been subpoenaed to appear here before the Federal grand jury investigating how the Pentagon papers reached the press.

K. Dun Gifford, who worked for Senator Kennedy from 1967 to 1970, is scheduled to testify on Oct. 27.

Mr. Gifford, who is with a real-estate development company here, would not comment when asked about the subpoena, but sources close to the case confirmed that one had been served on him.

The sources said that Mr. Gifford was known to be a friend of Dr. Daniel Ellsberg, who has said he gave the Pentagon study of the Vietnam War to the press, and Neil Sheehan, whose investigative reporting led to publication of a series of articles on the study in The New York Times.

Dr. Ellsberg and Mr. Sheehan were reported to be the main targets of the grand-jury investigation.

Friends of Mr. Gifford said that he had met both men while working for Senator Kennedy in Washington.

Two Are Questioned

The grand jury today questioned Dr. Samuel L. Popkin, an assistant professor at Harvard, and Ralph Stavens of the Institute for Policy Studies in Washington. Both were said to be friends of Dr. Ellsberg.

William Homans, attorney for Dr. Popkin, said that his client answered some of the grand jury's questions but declined to answer others. Dr. Popkin was asked to return on Oct. 27, as was Mr. Stavens, who was said also to have declined to answer questions.

Friends of Dr. Popkin at Harvard are asking colleagues to file affidavits in support of his contention that scholars, like journalists, depend on confidential sources to perform work in the public interest and should not be forced to reveal them to a grand jury unless the Government demonstrates compelling interest.

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Bombers hit MIT offices

CAMBRIDGE, Mass. (UPI) — A bomb exploded on the top floor of a Massachusetts Institute of Technology office building early today, damaging six offices and a ladies' room.

Officials said the blast in Hermann Hall came after a "female voice" told the MIT switchboard a bomb had been planted.

As campus police went to the building, locked and unoccupied, the bomb went off. There was no fire.

The four-story building houses some offices for the Center for International Studies, including that of Dr. Daniel Ellsberg, under indictment for unauthorized possession and distribution of the Pentagon Papers.

Dr. Ellsberg, a senior research associate at the center, has an office on the opposite side of the building on the fourth floor, on the southeast corner, an MIT spokesman said.

The blast happened on the northwest corner of the building, near offices of the political science department, in a ladies' room which was badly damaged.

The building also houses a first-floor library and some offices for the Sloane School of Management.

The spokesman said it would not be too difficult for someone in the library to reach the fourth floor at night.

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Date 10/15/71

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Keeping the Issues Alive

Heart of the Pentagon Papers

Reviewed by
 Laurence Stern

The reviewer is an assistant managing editor of The Washington Post and was chief of its Indochina Bureau during 1970.

Books

WASHINGTON PLANS AN AGGRESSIVE WAR.
 By Ralph Stavins, Richard J. Barnet and
 Marcus G. Raskin.

(Random House, 374 pp., \$7.95; Vintage paperback edition, \$1.95)

Here is another book that has, to a large extent, been overtaken by events. Although the authors had their hands on the secret Pentagon study well ahead of the New York Times, their book was not in the stores until almost three months after the documents were available at neighborhood newsstands at a dime a day.

Yet this does not invalidate the book. The substance of the Pentagon documents has been relegated in the daily press to the status of last week's street mugging. We read from time to time about grand jury deliberations in Boston and Los Angeles. The controversy over the administration's efforts to keep the Pentagon Papers out of the papers eclipsed the importance of the documents themselves.

Yet the disclosures about the inner workings of the national security system in managing the war are at the heart of the Pentagon Papers affair. I find it difficult to accept the notion that it was all old hat. What the documents told us about the methods, the mentality, the practical wisdom of the national security managers was never so clearly etched in public view.

One of the virtues of this three-part book is that it addresses itself to the pre-eminent issue of the Pentagon Papers revelation: that vast power that has been invested in a small circle of governmental mandarins to crank up a war for which little public consensus had been obtained and for which there is no immediate issue of national survival.

Richard J. Barnet talks to this point in an essay that is by far the most rewarding contribution of "Washington Plans an Aggressive War."

His subject is the national security bureaucracy that has its headquarters in the White House cellar and stretches its ganglia into the military, diplomatic and intelligence communities of Washington. The chief officer is the Special Assistant for National Security affairs. He is the President's ultimate filter on international affairs as they impinge upon what the security managers define to be in the national interest.

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 The National Observer _____
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OCT 18 1971

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65-74060-A

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170 OCT 19 1971

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The stylistic hallmarks of the national security management game are toughness, positiveness, pragmatism. These were the cardinal manly virtues in the New Frontier days, when the next great leap forward was made in our commitment to the Vietnam war.

The face of McGeorge Bundy, perhaps the epitome of the breed, projects itself on the mind's screen as a sculpture.

But as Barnet argues, and as the sad history of this period confirms, these brilliant and hard-nosed mandarins were as susceptible to the narcosis of stereotype and myth as the most woolly-headed among us. Even worse, they were mesmerized by the incoming stream of self-justifying cables and memoranda that tended to legitimize the policies of whichever administration was in power.

It is a truism of most bureaucracies that personal advancement rarely hinges on the purveying of bad news and dissenting opinions. In the case of the Vietnam war there was little room in the top councils of government for nay-sayers.

"The pervasive ignorance of the national security managers," writes Barnet, "concerning the politics of Vietnam led them into the trap of collecting isolated facts and figures . . . Like the classic private eye on television, homo mathematicus always looks for 'the

facts.' In the process, he misses reality, for he never gets close enough or related enough to another society to do more than count things in it."

The Pentagon documents will serve as the fossil marks of government process in dealing with the imagined threat to American power of a tiny Southeast Asian nation. What a pity if they should teach us nothing for the present and the future.

The virtue of this book is that it keeps the issues alive in what we fondly call public consciousness.

(Mount Clipping in Space Below)

Boudin, a 'walking encyclopedia' of human rights

Daniel Ellsberg

By Bob Sales
Globe Staff

William P. Homans Jr. is a contemporary of Leonard B. Boudin, an attorney who worked closely with Boudin during the Spock trial. Homans unashamedly expresses his admiration for Boudin both as a person and as a lawyer.

"He is one of the few heroes I have," says Homans.

Admiration for Boudin is widespread. Harvard Law School Professor Charles R. Nesson, cocounsel with Boudin in the Daniel Ellsberg case and in representing Agbal Ahmad in the Berrigan conspiracy case, describes him as "a wonderful man."

"He's a great teacher," says Nesson. "He's been my teacher."

Leonard B. Boudin is an unprepossessing 58-year-old man who has been practicing constitutional law for 35 years. The cases he's tried speak for themselves: Kent vs. Dulles, US vs. Laub, Floyd vs. Bond, Socialist Workers Party vs. Rockefeller, US vs. Spock...

The Harvard Law Record last year described him as a "modern legal constitutional history; a walking, talking encyclopedia of the Bill of Rights freedoms from the Wisconsin McCarthy to the Minnesota McCarthy to the present."

Boudin's most satisfying cases were during the '50s, cases which established the right of persons to travel abroad. The culmination of these cases came in 1958 when the Supreme Court held in Kent vs. Dulles that the Secretary of State could not deny a passport to an individual for political reasons.

The State Department tried to deny Boudin a passport in 1955, then later reversed its decision after he denied under oath that he had ever been a Communist during testimony before the House Un-American Activities Committee.

Boudin also represented many persons who appeared before the Senate Internal Security Subcommittee and its chairman during the '50s, Sen. Joseph R. McCarthy.

Boudin's career has not been a monotonous string of successes.

"I think," he says, "I've lost some of the most important cases ever before Supreme Court."

He rattles off those cases: Uphams vs. Wyman, Braden vs. US, Lerner vs. Casey, Ullman vs. United States. All dealt with freedom of speech or freedom from self incrimination and were heard during the McCarthy era. He thinks the decision might have been different five years ago; he isn't sure how today's Supreme Court would decide.

Boudin says he drifted into the type of practice he has. He was principally a labor lawyer in the mid-40s when the Taft-Hartley law was enacted. He became an adversary of the government.

"The unions were the subject of governmental interest," he says, "and it wasn't friendly interest." When it is suggested that he has grown away from the labor movement, he snapped, "The trade unions NOT

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51 THE BOSTON GLOBE
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THE BOSTON RECORD
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Date: 10/17/71
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Author: Bob Sales
Editor: Thomas Winship
Title: LEONARD BOUDIN

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have moved away from me."

Boudin joined the law firm of his uncle, Louis Boudin, upon graduation from St. John's University Law School in Brooklyn, N.Y., in 1935. His uncle was a constitutional lawyer.

"We, all the people in the office, tended to be interested in this kind of work," he says. "My uncle was a great influence on me."

So was another young lawyer, Victor Rabinowitz, who worked in Louis Boudin's firm. Leonard Boudin and Rabinowitz became partners in 1947 in a New York firm. They are still partners.

Boudin claims he has never had a political involvement with a client. He says he is interested solely in the constitutional principles involved in a case. He says he is not a political person.

He is a warm person with an intellectual curiosity and a personal interest in his clients.

"I've found my clients very appealing as human beings," he says. "Almost

all have become friends, even though they come from all political categories and some of them won't talk to each other. They're all very nice people."

Boudin recently entertained Ellsberg, Spock and Ahmad at his home. There was a "high degree of congeniality," he recalls.

Boudin spent last year as a visiting professor at the Harvard Law School. It was an enjoyable year, away from the jingling telephone and the pressures of his practice. He found time to play chess and to swim. He went bicycling with his wife, Jean, a poet. They've continued

this in Central Park since their return to New York.

Boudin would choose practicing over teaching if he had to, but he would like to combine both careers. He'd like to return to teaching, preferably at Harvard, in January, 1973, when the Ellsberg case is over.



LEONARD BOUDIN

... widespread admiration

More Pentagon Papers

By Jeannette Smyth

Even the crab meat tarts were arranged more formally.

The freshly printed book—whose publication has involved grand juries, the Federal Bureau of Investigation, possibly a prison sentence for its editor, the Constitution of the United States and a Senator's crying in public—was laid casually on the top of a grand piano.

The book was "The Senator Gravel Edition—The Pentagon Papers," the tarts were for the party in honor of the books publication last night at the Sheraton-Carlton, and the subpoena

before a grand jury in Boston was for Leonard S. Rodberg, of Washington's Institute for Policy Studies, who had been hired by Sen. Mike Gravel (D-Alaska) to edit Gravel's copy of the Pentagon's Vietnam war history.

After a series of moves and countermoves by the Justice Department and Rodberg's and Gravel's lawyers, a federal judge in Boston ruled Oct. 4 that while Gravel's involvement in the acquisition and publication of the papers was immune to investigation, Rodberg's was not. The judge upheld the subpoena which had been served on Rodberg in August about

the time Boston's Beacon Press accepted the Gravel edition from Rodberg for publication.

Asked why the grand jury had not served a subpoena on Sen. Gravel, an informed source at the party simply said "he's too big a fish."

Meanwhile, Rodberg was at the party, having a drink thinking about the possibility of going to prison for refusing to testify, and offering some ironic footnotes.

"Grand juries were originally set up to keep the executive branch of the government from indicting people," the former University of Maryland professor said. "The idea was that only the jury—not the government—could do it."

Sen. Gravel, who has practically offered to be subpoenaed himself ("... if the federal government is after me, they should say so...") was greeting some 75 guests including one of the three experts in Constitutional law he has engaged for the case. He went to the piano to look at the book for the first time, leafing through one of the four volumes, testing the quality of the paper with his thumb and forefinger.

Then Sen. Gravel spoke, with almost as much emotion as he had the night of June 29, when he released the Pentagon papers to the press and the public record at an emergency meeting of his Building and Grounds Subcommittee. That night he cried as he spoke of the dead and dying in Southeast Asia.

Last night, he said "I was prepared to give up my Senate seat so that the American people could have these papers. Nothing but my family is dearer to me than my Senate seat—I've wanted to be a Senator since I was 12 years old."

"This," he said, holding up the free copy he'd been given, "is my only pay-off. If there's any question that I'd do it again, I would. I'd do it again and again and again and again."

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Ellsberg Kin Held in Contempt

By Sanford J. Ungar

Washington Post Staff Writer

A federal judge in Boston held Daniel Ellsberg's mother-in-law in contempt of court Wednesday after she refused to testify before a grand jury investigating the disclosure of the Pentagon papers earlier this year.

Idella Marx, stepmother of Ellsberg's second wife, was released on bond pending appeal of her contempt citation, handed down by U.S. District

have been based on illegal wiretapping.

Her lawyers have 30 days to file an appeal with the First U. S. Circuit Court of Appeals in Boston.

Ellsberg has acknowledged making the Pentagon study on Vietnam available to the press. Mrs. Marx was the third member of his family to be called before federal grand juries this week.

Also on Wednesday, Ellsberg's brother-in-law, Spencer Marx, 24, invoked the Fifth Amendment and refused to testify when called before another grand jury in Los Angeles.

Attorneys from the Internal Security Division of the Justice Department temporarily deferred any further action against Marx, who is the brother of Ellsberg's wife, Patricia.

On Tuesday of this week, however, Ellsberg's 15-year-old son Robert answered a subpoena before the same Los Angeles grand jury and was intensively questioned for several hours.

The son lives in Los Angeles with his mother, who is divorced from Ellsberg and co-operated with the government's original investigation, which led to Ellsberg's indictment for alleged violations of the federal Espionage Act.

Court Judge W. Arthur Garrity Jr.

She had refused to answer grand jury questions, despite Garrity's approval of a government offer of immunity from prosecution.

Earlier, Mrs. Marx attempted unsuccessfully to resist the subpoena served on her by the Justice Department, invoking the Fifth Amendment safeguard against self-incrimination and charging that the subpoena may

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Despite the pending indictment against Ellsberg, a researcher at the Massachusetts Institute of Technology's center for international studies, the Justice Department has pursued the investigations in Boston and Los Angeles, with the possibility of further charges to come.

There were these other developments in the Pentagon papers investigations:

- At least seven other persons refused to testify Wednesday in Los Angeles, including Melvin Gurtow, a former Ellsberg associate at the Rand Corporation now teaching at the University of California in Riverside; Albert Appleby, a Los Angeles business-

man; Sally Binford, an anthropologist; and Jane Schulman, 22, of Mill Valley, Calif.

- Linda Sinay, 27, a Los Angeles advertising woman who previously testified about helping Ellsberg photocopy government documents, appeared before the Los Angeles grand jury again Wednesday. She has been granted immunity from prosecution.

- Judge Garrity agreed in Boston to reconsider his ruling last week that an aide to Sen. Mike Gravel (D-Alaska) must appear before the grand jury there.

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At a reception here last night, Beacon Press officially launched its four-volume version of the Pentagon papers as made available by Gravel.

Legal observers have suggested that one focus of the continuing government investigation is how Gravel arranged for republication of the Vietnam study after making it public during a midnight Senate subcommittee meeting last June 29.

EX-KENNEDY AIDE CALLED BY INQUIRY

Gifford to Appear Oct. 27
in Ellsberg Case

By NICHOLAS GAGE
Special to The New York Times

BOSTON, Oct. 14 — A former legislative assistant to Senator Edward M. Kennedy has been subpoenaed to appear here before the Federal grand jury investigating how the Pentagon papers reached the press.

K. Dun Gifford, who worked for Senator Kennedy from 1967 to 1970, is scheduled to testify on Oct. 27.

Mr. Gifford, who is with a real-estate development company here, would not comment when asked about the subpoena, but sources close to the case confirmed that one had been served on him.

The sources said that Mr. Gifford was known to be a friend of Dr. Daniel Ellsberg, who has said he gave the Pentagon study of the Vietnam War to the press, and Neil Sheehan, whose investigative reporting led to publication of a series of articles on the study in The New York Times.

Dr. Ellsberg and Mr. Sheehan were reported to be the main targets of the grand-jury investigation.

Friends of Mr. Gifford said that he had met both men while working for Senator Kennedy in Washington.

Two Are Questioned

The grand jury today questioned Dr. Samuel L. Popkin, an assistant professor at Harvard, and Ralph Stavens of the Institute for Policy Studies in Washington. Both were said to be friends of Dr. Ellsberg.

William Homans, attorney for Dr. Popkin, said that his client answered some of the grand jury's questions but declined to answer others. Dr. Popkin was asked to return on Oct. 27, as was Mr. Stavens, who was said also to have declined to answer questions.

Friends of Dr. Popkin at Harvard are asking colleagues to file affidavits in support of his contention that scholars, like journalists, depend on confidential sources to perform work in the public interest and should not be forced to reveal them to a grand jury unless the Government demonstrates compelling interest.

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Ellsberg says war papers taught him: Distrust authority

By John B. Wood
Globe Staff

Daniel Ellsberg, under indictment for his role in releasing the Pentagon Papers, returned to MIT last night with what he described as "an anarchic and seditious message."

"If there is one message I have gotten from the Pentagon Papers," the MIT research associate said, "it is to distrust authority, distrust the President, distrust the men in power, even Americans in power, because power does corrupt, even Americans."

In his first public appearance at MIT since the publication of the once-secret Pentagon study,

Ellsberg was applauded enthusiastically by a moratorium audience of more than 1000.

"Those of you who stood up just now will be subpoenaed in the morning," Ellsberg said, cutting short a standing ovation.

Twelve of his former associates, including MIT linguistics Prof. Noam Chomsky, have been subpoenaed by grand juries in Boston and Los Angeles.

In a long, informal address, Ellsberg discussed the Pentagon Papers only in passing. He concentrated instead on events since their publication, offering political observations, personal advice and

reading lists to his largely student audience.

Ellsberg said he'd been told by a former colleague at the Rand Corp. that "since last spring, every professional ... in government work has been facing a personal and professional crisis."

"You might be thinking how you are going to avoid being in that position in 20 years," he suggested.

Ellsberg described the experience of one of his former colleagues, Anthony Russo, who was jailed after refusing to testify before the Los Angeles Grand Jury.

"These prisons can be seen as a mirror of our so-

ciety, in which people are put in official positions where they are allowed to deal violently and secretly with people who are not considered to be full-fledged Americans," Ellsberg said.

He characterized the Los Angeles County Jail, where Russo spent more than two months, as being run "in almost perfect official secrecy, which must be the envy of my old colleagues at the Pentagon."

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8 THE BOSTON GLOBE
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DANIEL ELLSBERG
... "anarchic message"

ELLSBERG INQUIRY PRESSED IN BOSTON

U.S. Grand Jury Expected
to Return Indictments

By NICHOLAS GAGE

Special to The New York Times

BOSTON, Oct. 13—A Federal grand jury here investigating how the Pentagon papers reached the press was reported today to be moving closer to returning indictments.

The main targets, according to sources close to the investigation, are Dr. Daniel Ellsberg, who has said that he gave the Pentagon study of the Vietnam war to the press, and Neil Sheehan, whose investigative

Two other statutes carry penalties of up to five years in prison and up to \$10,000 in fines. One is known as the general statute that prohibits conspiring to violate any United States law. The second involves possession of stolen property transmitted across state lines.

The fifth prohibits "concealment or removal" of public records and carries penalties of up to three years in prison and up to \$2,000 in fines.

Indicted in Los Angeles

Dr. Ellsberg was indicted by a Los Angeles grand jury in June on charges of unauthorized conversion of classified Government documents and is free on \$50,000 bail. Dr. Ellsberg lived in Los Angeles while working as a consultant to the Rand Corporation, a government supported research company that had a

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The Washington Merry-Go-Round

Pentagon Memo Bares U.S. Viet Control

By Jack Anderson

Still-secret portions of the controversial Pentagon Papers disclose that the Johnson administration felt it could virtually dictate the hiring and firing of top-level South Vietnamese officials.

This revelation could prove acutely embarrassing to the U.S. government, which has repeatedly insisted it is involved in Vietnam to protect the South Vietnamese from domination by an outside power.

The Johnson administration's arrogant attitude is disclosed in a memo to the President from a high-ranking study group headed by LBJ's second Defense Secretary, Clark Clifford.

The memo has not appeared in any of the published excerpts and has been censored in the official version released by the Pentagon.

Here is what the censored memo says: "We should solicit Ambassador (Ellsworth) Bunker's views on the desirability of replacing the Prime Minister. If he is to be replaced, we should agree on his successor beforehand, in consultation with Thieu and Ky."

The memo reveals that this same attitude persisted towards other Vietnamese officials and military officers. It calls for the "relief of a special... incompetent province chiefs who have... our

efforts in the past must be removed."

The memo adds that "incompetent ARVN (Vietnamese Army) officers must be removed, beginning with a specific list that should be made available by MACV." The letters MACV refer to the U.S. Command, which was to decide which Vietnamese officers should stay and which should go.

"We should not hesitate," the memo says, "to make our desires known and back them up by refusing to provide support for the incompetent. For key commanders, we should require the right of prior approval on a secret and discreet basis. The precise tools of leverage should be left to the U.S. Mission."

Political Censorship

The censored memo, clearly deals with political, not security, matters. Yet the Pentagon insists that all the omissions from its published version of the Pentagon Papers involved vital national security matters.

We have compared the official version with still-secret segments of the uncensored text. We can report that the deletions, like the Clifford memo, involve matters likely to embarrass the government, not threaten security.

Another example is a derogatory comment about India, which might make it hot for the U.S. ambassador in New

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Date OCT 12 1971

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Delhi but would hardly endanger this nation's security.

It occurs during a discussion of diplomatic and military alternatives in Southeast Asia. "A further possibility," the document states, "would be to seek to enlist India more deeply in the Cambodian situation. This is worth trying, but the Indians are a weak reed for action or for effective diplomatic dramatization."

Also left out is a statement by former State Secretary Dean Rusk that the U.S. would have no alternative but the use of nuclear weapons if China became involved in our war in Southeast Asia. The statement occurs in a cable to Washington following a meeting between Rusk and South Vietnamese's then-Premier Nguyen Khanh in April, 1964.

"The Secretary said he wished to emphasize" that "... if escalation brought about a major Chinese attack, it would also involve the use of nuclear arms. Many free world leaders would oppose this.

"Chiang Kai-shek had told him fervently he did, and so did U Thant. Many Asians seemed to see an element of racial discrimination in use of nuclear arms; something we would do to Asians but not to Westerners.

Khanh replied he certainly had no quarrel with American use of nuclear arms, noted that decisive use of atomic

bombs on Japan had in ending war saved not only American but also Japanese lives. One must use the force one had; if Chinese used masses of Humanity, we would use superior fire power."

Footnote: Some of the uncensored documents, we have learned, will be included in Alaska Sen. Mike Gravel's collection of Pentagon Papers, to be published by the Beacon Press.

Saving Postage

California Congressman Peter McCloskey's campaign to challenge President Nixon in the GOP primaries has always been a little shaky financially.

Still, we were surprised to discover that the personable McCloskey has been mailing campaign literature in congressional envelopes clearly franked "PUBLIC DOCUMENTS OFFICIAL BUSINESS." The envelopes contain colorful pamphlets asking: "Will YOU join the McCloskey Volunteers—and help 'Pete' now!"

"Pete" apparently needs some help interpreting the federal postal laws. Campaign mailings clearly are prohibited, and violators are subject to a \$300 fine. At McCloskey's office, an embarrassed aide, said: "It's our error. About five of them went out in franked envelopes."

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A 4 Friday, Oct. 15, 1971 THE WASHINGTON POST

Ellsberg Kin Held in Contempt

By Sanford J. Ungar
 Washington Post Staff Writer

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She had refused to answer grand jury questions, despite Garrity's approval of a government offer of immunity from prosecution.

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